

# Human Rights And Rights Based Approach

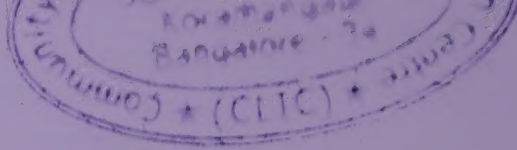
Documentation of Training Sessions - Vol. 3

## RIGHT TO NATURAL RESOURCES



Mahila Sarvangeen Utkarsh Mandal





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# **HUMAN RIGHTS AND RIGHTS BASED APPROACH**

*Documentation of Training Sessions*

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Vol. 3

## **RIGHT TO NATURAL RESOURCES**



Mahila Sarvangeen Utkarsh Mandal (MASUM)



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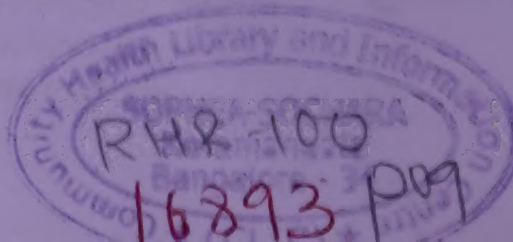
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# Preface

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Having assented to the Universal Declaration of Human Rights and other international treaties, It is the Nation State's obligation to eliminate all kinds of discrimination based on class, caste, religion, gender, colour, physical capacity, sexual orientation etc. In addition, the state is duty bound to respect, fulfill, protect and promote the human rights of all citizens without any discrimination.

Despite democratic system of government in our country, social inequalities have not been completely eliminated; on the contrary, some of the political parties have experimented with coming to power by actively promoting violence against minorities based on regional and religious sentiments. Unregulated market forces unleashed by globalization have further widened economic disparities.

With the objective of strengthening human rights movement in the country, MASUM organized a series of trainings on Human Rights and Rights Based Approach, in which activists representing non –government organisations / institutions from several states of the country participated. The present volume is based on training sessions related to 'Right to Natural Resources' from this series. The credit for bringing this manual in the present form goes to Swati Vaid and Malavika Kadam who have compiled and edited the presentations of the resource persons who participated in the trainings. We hope that this volume will be useful for conducting such trainings to promote human rights and rights-based approach.

We wish to express our special gratitude to The Ford Foundation, New Delhi for providing the financial support for this training programme.

Manisha Gupte, Dr. Ramesh Awasthi  
CO-conveners, MASUM







# Acknowledgements

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This Volume is the compilation of three years of efforts put in by varied individuals. Here we take the opportunity to thank not only those who were involved in the compilation of the manual, but also those who were a part of the MITRA Training on Human Rights.

We would like to begin by thanking all the participants whose passionate involvement was integral to the success of the five trainings. We now have many enthusiastic friends spread all across the country who are committed to forward the cause of human-rights. They have made a special place for themselves in our hearts. We are also grateful to the organizations that deputed their valuable activists and workers for the trainings. We appreciate their involvement in helping build the capacities of their staff.

We are grateful to all the resources persons who took the time out to share their expertise. The quality of their inputs, understanding of issues and expression was instrumental in making this series of trainings informative, enlightening and useful. Coming from different parts of the country, they also helped the participants have a national overview of the scenario of people's rights and struggles.

Our special guests for the valedictory function need to be given special thanks for boosting the morale of the participants through their inspirational speeches. Their knowledge, experience and humility were qualities we all wish to imbibe.

We are grateful to BAIF and J. P. Naik Center for the venue for conducting the trainings and hosting the participants. The green and spacious venue, efficient technical support, delicious food and warm and helpful staff are the reasons BAIF has been the choice of venue for several trainings conducted by MASUM.



We would like to thank Ms. Vidya Kulkarni for the beautiful group photographs she took to help us hold on to our lovely memories of the trainings.

Thanks to Mr. Christopher Hendricks for printing the certificates.

We would also like to thank the highly-dependable MASUM staff whose contribution goes from providing academic inputs to punching sheets and hanging banners! We would especially like to thank Mr. Sopan Wadkar, Ms. Sangeeta Kumbhar and Mr. Vilas Indalkar for the excellent support they provide in all times of need.

We are thankful to Mr. Ravindra Thipse for the diligence and thoroughness in his work before and during the printing stage. We are thankful to Mr. Raju Deshpande for the cover page design. We would also like to thank Mr. Anand Verghese of Anita Printers for bearing with us as we struggled to get this manual printed within stipulated time.

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# More About Mitra

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A series of five trainings on various themes was organized at the national level during 2007-08. These trainings were organized under the banner of MASUM's Institute for Training in Rights-based Approach or MITRA. Here is a brief introduction to the objectives of the MITRA project along with some information regarding the trainings.

## What is MASUM

MASUM is an organization working in the drought prone rural areas of Purandar and Parner blocks of Pune and Ahmednagar districts in Maharashtra since 1987. MASUM is a development group with a feminist perspective and a democratic approach. MASUM works on the issues of Health, Domestic Violence, Women's Resource Development, child rights with a rights-based approach.

## MASUM Aims to Work on Following Themes

- Patriarchy and its relationship with other discriminatory systems.
- Overt and covert relationship between violence and ill-health.
- Human Rights, Rights Based Approach, Child Centered Approach.
- Women's Empowerment - at individual and community level.
- Social transformation based on equality and social justice.

## Following are MASUM's Main Programmes Based on the Above Themes:

### Village Level Programmes

- ❑ Interventions Against Family Violence: The issue of violence against women cuts across caste and class. It finds its base in the social system, customs and traditions and the lack of effective laws and their implementation. MASUM believes that violence can be stopped and that the community should be mobilised to act in order to bring family violence to an end, taking support of



law whenever necessary. Through this programme it seeks to provide counseling, legal advice and emotional support to women who are victims of violence through the counseling centre located at the Saswad and the village based para-legal workers.

- ❑ Empowering Children through Recreational Activities: The programme works with children in the age group of 6 – 12 years in order to promote the values of peace, equality, justice, co-operation and non-discrimination amongst them, to prevent the perpetuation of violence through children and to nurture their dignity so that they learn to value themselves and others.
- ❑ Programme for Women's Economic Rights: This programme is aimed at strengthening the economic self reliance of rural women, empowering women through creating access to credit and motivating them to gradually build their own resources base.
- ❑ Programme for Women's Right for Political Participation: This programme aims to increase women's participation in the political processes at the village level. Information and support is provided to women, especially those from the minorities and weaker sections to demand their rights.
- ❑ Programme for Women's Health Rights: MASUM's health programme focuses on women's health concerns with a feminist perspective and works with a rights based approach to health care. The women's health programme is built on the self help principle, which aims to empower women with knowledge of their own bodies and addresses unequal relationship between the provider and receiver because of the possession of knowledge and skills with the provider, by sharing information.
- ❑ As part of the Women's health programme MASUM initiated the adolescent empowerment programme. Participatory sessions are planned and conducted by the health workers. These sessions help the adolescents to build their perspective on the issues of class, caste, gender, religion and sexuality. Sessions on physical education, self defense, cycling and games that are generally played by boys are specially conducted for the adolescent girls.
- ❑ Inculcating Democratic Values in School Children: This programme aims at



introducing the values enshrined in the Indian Constitution so that children are able to protect and promote / cherish these values.

### **State and National Level Campaigns**

MASUM is associated with several state and national level campaigns viz. Campaign against Violence against Women, People's Health Movement, Right to Food Campaign, Campaign against Corporal Punishment etc.

### **MASUM as a Training Organization**

Over the years MASUM has developed as a credible training resource at the local, state and national levels in the areas of women's health care, gender sensitization and mainstreaming of gender issues, violence against women, human rights, reproductive and sexual rights, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and Economic, Social and Cultural Rights (ESCR).

MASUM gradually sharpened its rights based perspective while working in rural areas on the issues of women, children, dalits. A need was felt to empower other development organizations with a rights based perspective as well. It was felt that by adopting this approach, these organizations would be more effective at eliminating inequality and discrimination and pressurizing the government to fulfill people's rights, rather than being mere service providers. The belief that rights based approach will make the work universal and sustainable began to take root.

MASUM believes that knowledge is the proverbial third eye. Hence MASUM gives equal importance to training field activist as to field work itself. Understanding the causes of economic and social issues, political and historical processes, interrelations between local, state, national, international realities have always been a part of MASUM'S trainings.

In 1998-2000, MASUM shouldered the responsibility of conducting trainings on Women and Health in Maharashtra. In the year 2001-2002, MASUM in partnership with IWRAW – Asia Pacific organized trainings on CEDAW with the objective of building capacities of



women's organizations to work for policy change pertaining to women's health, violence, sexuality etc. In addition to the above, resource persons from MASUM have been regularly training other NGO's as well as government organisations on gender issues, women's health, micro-credit etc. Capacity building of rural NGO's on above issues is an ongoing activity of MASUM.

MASUM has been a part of the campaign against sex-determination. MASUM was a co-petitioner along with CEHAT and Sabu George in filing a Public Interest Litigation in the Supreme Court for implementation of PNDT Act in 2000. MASUM's understanding of rights has enhanced through experiences of working at the grassroots, conducting trainings, engaging with the government as well as various other development organizations, movements and campaigns.

Organizations in the country are already working with varying degree of rights- perspective on different issues. MASUM started MITRA project in 2003 with the objective of making the work of social change more effective by employing rights-based approach in partnership with different organizations.

## **What is MITRA**

"MASUM Institute for Training in Rights Based Approach", MITRA Program is a human rights training program started by MASUM in 2003. Under this project, a series of trainings was organized on five themes. These themes were Women's Rights, Health Rights, Rights over Natural Resources, Child Rights and Training of Trainers. During the two years of the first phase (2003-2005) of MITRA, 140 participants from 39 NGOs in Maharashtra successfully completed twelve day trainings on the above subjects. Twenty two participants selected from the above also took part in the Training of Trainers.

In the second phase of MITRA, we wanted to take the experiences learnt in Maharashtra to the national level. This series was conducted from April, 2007 to July, 2008.



## **The Time Schedule of the Series**

The Time Schedule of the Series was as Follows

Women's Rights	18th -28th April, 2007
Right to Health	1st - 12th August, 2007
Right to Natural Resources	11th - 22nd December, 2007
Child Rights	2nd - 13th April, 2008
Training of Trainers	16th - 25th July, 2008

In this second phase, 87 participants from 51 organizations and 16 states benefited from the training. 19 participants among these also participated in the Training of Trainers. The content of MITRA training was specifically designed for the activists of NGOs, People's Organizations and People's Institutions. Priority was given to those activists who desired to understand human rights in depth and intended to utilize this knowledge in their on going work / campaigns. During selection, an attempt was made to ensure that the participants would come from as many states as possible and that there would be a gender balance.

## **What was the Training Methodology**

The MITRA programme recognizes and values the experiences and skills that participants bring with them to the training programs. The MITRA training methodology was a mix of information sharing through lectures and power-points as well as participatory exercises, with an emphasis on group work, case studies and discussion, so as to ensure the theoretical and practical relevance of the training sessions.

MASUM's trainings are strong on ideological content, in building a progressive perspective and on strengthening democratic processes at the grass roots, through community organization / mobilization. MASUM combines knowledge with skills, theory with practice and local concerns with global issues in all its trainings.

A certificate of completion was provided to all the participants after the trainings.



## **What does this Volume Contain**

This volume is a compilation of the sessions conducted during the training on “**Right to Natural Resources and Rights Based Approach**”. The thoughts and the opinions expressed in these sessions are those of the resource persons. It is not necessarily that MASUM agrees with those.

Like the training, the volume also has two parts - **Generic Module and Specific Module**. All those subjects which are important to lay the foundation for understanding national and international human rights issues are included in the first part i.e. **Generic Module** of this volume. They include: Gender, Patriarchy, Inter-sectionality of Human Rights, Discrimination, Approaches to Equality, Rights Based Approach, State Obligations, History of Human Rights, Human Rights Concepts, International Human Rights Systems : United Nations, Constitution of India and Human Rights, National Human Rights Commission and State Human Rights Commissions, Impact of Neo-liberal economic policies on people’s Human Rights, Fundamentalisms etc.

The second part was specific to the theme of the training. The theme of the **Specific Module** of this volume is centered on **Right to Natural Resources**.

The following topics are included in this specific module : New Economic Policy and the Right to Natural Resources, History of Struggle for Natural Resources, Right to Water , Indian Water Policy, Forest Rights of Tribals, Land Rights of Tribals, Salwa Judum, Violations Related to Mining, Issues Related to Land, Advocacy on Issues Related to Land, Special Economic Zones, Farmers’ Suicides, Big Dams and Livelihood, Land Rights of Dalits, Rights Related to Pisciculture, Population and the Struggle for Resources, Tourism – Violation of Human Rights, Disaster and Economic, Social and Cultural Rights - Violations & Fulfillments, Urban Evictions and Displacement, Sustainable Development etc.

## **Who were the Trainers / Facilitators**

MITRA trainers were highly experienced, national level activists and academics from pro-people movements and NGOs, working on issues related to people’s rights.



## **For Whom will this Volume be Useful**

This volume will be useful for middle level activists of NGOs/ People's Organisations working on women's issues. It may prove interesting to all those who wish to know the scope of this subject and wish to gain information on it. It is specifically useful for those who want to conduct trainings on women's rights and wish to gain knowledge and guidance. The volume contains compilation of the games, topics for group discussions, films screened etc. which will be of practical use for conducting the trainings.

## **Other Volumes from this Series**

MASUM has published volumes on other themes from the training series as well. They are as follows

- ☞ Volume 1 : Women's Rights
- ☞ Volume 2 : Health Rights
- ☞ Volume 4 : Child Rights

The list of topics covered in each of these themes is attached in Annexure 4. Kindly contact MASUM to order these or for further information.









# 1

## Gender

**Resource Person**      Manisha Gupte

**Duration**                3 Hours

**Methodology**            Group Activities (Case Dtudy Ddiscussion,  
Discussion on Game) and Lecture

### Objectives

- ☐ To discuss which differences between men and women are biological and which ones are social constructs.
- ☐ To see how these social constructs impact us.
- ☐ To understand how they are reinforced by religion, culture, educational system, communication media, judicial system etc.
- ☐ To think how these (traditional) roles can be changed by us at the levels of our family, workplace and community.

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One day prior to the session a case study was given to participants and they discussed the questions posed at the end of the case study.

### Case Study

#### Situation 1

Let us imagine that twins have been born to someone we know. One of them is a boy and the other, a girl. We go to visit them in the hospital. They are wrapped in cloth from below the neck. Can we make out the sex of the children? No, because the sex of infants can be found out only through differences in their external genitals. So, when can biological difference show that Munna is a boy and Munni is a girl? Only at puberty, when secondary sexual characteristics develop. However in reality, do we need to wait so long to find out the difference? No, because the clothes they wear, the hair they keep and the way they behave are different for both from early childhood. Many believe that this difference in behavior between boys and girls is 'natural' because it comes so early. Therefore, let us look at another situation to explore whether this is true.



## **Situation 2**

Munna and Munni are three months old. They are both hungry. Does Munni cry less? Does she sacrifice her share of the milk for Munna? She doesn't. So how can we say that women are sacrificing by nature? Even when the twins are one year old, they both fight equally for toys, sweets, and their parents' attention. So why do they become so different when they grow up? We need to visit the twins again to find out.

## **Situation 3**

The twins are now two years old. Munna is given a shirt and shorts to wear. Munni gets frocks and dresses. Do the children choose their own clothes at the age of two? We decide that, 'Because' Munna is a boy, he is expected to wear a shirt and not a frock. Where do these expectations come from? They come from society, not from the children's natural desires. Therefore, society determines the way in which boys and girls dress up, the manner in which they keep their hair, and so on. Next, because Munni is wearing a dress, she is asked to sit properly with her feet close together and is told not to climb or jump in a way that reveals her underclothes. Gradually, she is told not to shout, not to laugh loudly, not to.... not to.... The list never ends. This social influence is called the social construction of gender. This begins around the age of one, and by the time the children are two or three years old, they get to know their gender. Later on, when they notice their own external genitals as well as that of others, they get to know of their biological differences. As the children grow up, gender begins to play a bigger role in their upbringing. Let us see how that happens.

## **Situation 4**

The twins are now six years old. We have been invited to their birthday party. We go to a toyshop to buy presents for them. What is the question the shopkeeper asks us even before he enquires about our budget, whether the present is for a boy or girl, isn't it? If it is for a boy, he shows us cars, bats and ball, planes, guns, mechano sets, and so on. And for a girl? Dolls, kitchen sets, embroidery and stitching sets, items to pretty up such as hair clips, miniature cosmetics, fancy combs and so on, are shown. We decide to buy a bat and ball for Munna and a doll with the kitchen set for Munni. What are the ramifications of these presents for children?

## **Situation 5**

Munna plays with the bat and ball. Where is this game played? Out in the open, away from home. Therefore Munna gets a chance to go out, to learn to cross a road, to learn negotiate with children of his age (or even older children, when they snatch his toys); he gets fresh air, his muscles develop, his appetite grows and he learns to face the big bad world out side his home. He becomes tough; he learns to handle situations on his own and soon earns the confidence of his parents. They begin to trust him with outdoor work, and they begin to involve him in decision-making too.

On the other hand, Munni plays with the doll and the kitchen set. Where is this game played?



Inside the home, in the kitchen or in the corner of living room. What is the script use when she's playing? "Feed the baby" Kiss the baby, It's sleeping now", "What have you cooked today?" "What does your baby like to eat?" Munna can enter the house, banging his bat on the staircase, but if Munni bangs her doll on the wall, we immediately tell her not to hurt the baby! In reality, we are inculcating in her the values of motherhood and wifehood. We are creating a future homemaker, instead of letting her play and enjoy her childhood. This is the reason why women are considered to be better parents. We sometimes also believe that women are naturally gentler. This is not true. Gentleness (which is good quality for both Men and Women) is expected more of women, so we train her to be like that. If a woman does not like to cook, or does not want children or is not a good homemaker, she is ridiculed and ostracized. She dare not say that she does not like children, because she will be labeled 'abnormal'.

### **Situation 6**

After a few days of playing with their own toys, the twins get bored and want to exchange their presents. Munni picks up the bat and ball and get ready to go to the playground. What is our response to that? "You'll be the only girl, how can you play with the boys?" "What will the neighbors say?" "You will tear your nice dress", "What will you do if someone follows you or harasses you?" Why are you behaving like a tomboy?" On the other hand, if Munna gets tired of going out and wants to play at the home with Munni's doll, what would our response to that? Oh no, he's going to be a sissy when he grows up!" "Why does he want to behave like a girl?" "Where did I go wrong in bringing him up?" "I hope no one notices him play with the doll, or else they'll ridicule him in the school", "He should be playing outside, not sticking to his mother's apron like this", and so on. If children refuse to play the gender roles we assign them, it creates a great deal of anxiety within us. We make them change their behavior according to what we think is appropriate for their sex. We punish them if they resist. We even take them to counselors for behavioral therapy. Therefore, accepting a prescribed gender role is not as natural as we would like to believe; it is forced upon us by society. What are the manifestations of such gender norms of Munna and Munni when they grow up? Look at another situation in their lives will throw some more light on this matter.

### **Situation 7**

Munna and Munni are now 20 years old. Munni will soon be married to boy her father has selected. She knows how to cook and clean, and is good at stitching and mending clothes. She has a degree in home science. Her parents have collected money for her dowry. They will give Munna the house and Munni the dowry. Munna has a degree in hotel management and is a chef in a good restaurant. He has a decent salary. Munni's fiancé is a dress designer and designs clothes for boutique. He also has a good annual income. The dowry from Munni's parents will help him put up his own shop.

- Questions :**
- 1 What are the biological and the 'social' differences between men and women?
  - 2 In what way do these socialized differences affect us?



- 3 How do religion, culture, the educational system, the media and the legal system reinforce these social constructs?
- 4 How can we change these prescribed 'roles' at the levels of the family, work-place and community?

### **Are these Gender Roles Social or Natural in Origin? A Game**

After having a discussion on the case study, a game was played by participants. Its aim was to understand how the socially determined gender-based roles are treated as natural roles by us. In the game, the resource person reads out different statements based on gender roles. If the participants feel that a particular statement reflects biological factors, they have to put a foot inside the circle. If a statement reflects social causes, their feet must be placed outside the circle.

#### **List of the Statements**

- 1 Women are gentle by nature.
- 2 Men play cricket better than women.
- 3 Women menstruate.
- 4 Women are better cooks than men.
- 5 Men are violent by nature.
- 6 Women's hair is longer than men.
- 7 Men have mustaches.
- 8 Women are better home makers.
- 9 Men can not do household work.
- 10 Men can not control their libido.
- 11 Men tend to bald with age.
- 12 Women in their youth are protected from heart diseases.
- 13 Women have their meals after men.
- 14 Girls play with dolls and boys with cars.
- 15 Women have ovaries.
- 16 Men have more hair on their bodies than women
- 17 Women bear violence without a murmur
- 18 Boys' voice changes as they reach puberty.
- 19 Men can not take care of young babies.
- 20 Girls' bodies become curvy as they reach puberty.
- 21 Women leave their parental home after marriage.



- 22 Women conceive.
- 23 Men earn more than women.
- 24 Women's name changes after marriage.
- 25 Women breastfeed babies.

### Discussion on the Game

- Participants faced no difficulties with respect to matters related to primary sexual characteristics such as menstruation. Gender differences which are clearly based on social factors e.g. boys play cricket, also posed no problems.
- There were a lot many difficulties with respect to matters related to hair. Male body has more hair due to biological reasons and males also carry greater risk of baldness due to the same. Apart from this basic difference, how much hair men and women keep is decided entirely by social customs. Social customs determine who should keep long hair and who should keep it short. Hair is treated as a symbol of female sexuality and beauty. Widows are shorn of hair precisely so that no symptom of sexuality or attractiveness is left with them.
- That a woman becomes pregnant is a fact. Others - that a woman must avoid pre-marital pregnancy; pregnancy is a compulsory after marriage and the prevalent male preference, are the social norms related to pregnancy.
- When women's work is analyzed we realize that all that work which has no economic value is imposed on women. Whenever there is a possibility of economic compensation, men quickly enter the arena. The latest example of this is self-help groups (SHGs). By giving a little money, the government gets the SHG member-women to cook midday meals for school-going children. Other work in villages where money can be earned is promptly given to the contractors.

### What is Gender?

Without any other basis save that you are born as a boy or girl a social horoscope decides what you can do in life, what opportunities you will have and which ones you will be deprived of. Gender is social and cultural definition of men and women. It shows how society views men and women, how it distributes roles, rights and resources between them and what type of mentality and praxis it teaches them.

### ***Sex of a person usually remains the same but gender changes depending upon era, religion and region***

*"Gender would definitely have been a different construct in the times of Prophet Mohammad. His wife was older to him, she was a widow before her marriage to Mohammad and she was a rich business woman. The Prophet used to work at her place. Mary Magdalene*



would have been in her times a companion of Jesus Christ but later on, society saw her as a prostitute. Thus the same thing is viewed differently at different times depending upon the then socially prevalent concept of gender. This concept changes with time. The same thing applies to Sita. It is impossible to know what these women were really like because after the onset of patriarchy, their roles were cast in the patriarchal mould."

- Manisha Gupte

If we look at history of women, we clearly see their initiative, participation and contribution in every field such as agricultural, weaving of cloth, discovering medicinal uses of plants, hunting etc.

Different roles have been defined for women following different religions. Similarly due to local customs and beliefs, there will be plenty of differences in the gender roles that Muslim women from India, Saudi Arabia, Canada and Morocco have to perform. Physical sex does not generally change. It is not necessary to change it also because physical sex is not disadvantageous for us. Social sex / gender however, keeps changing and has been changing through different times. This gives us hope as it means that the ills of the social roles can be removed over time.

### **Are we then Pro-women and Anti-Men?**

No, because roles of both women and men are determined by society. We oppose patriarchy and social rules which create inequality on the basis of gender.

*"Efforts to restrict women's use of modern technology are sometimes observed. For example, prominent members of Sindhi community in Pune issued a Fatwah (a sort of notice) that Sindhi girls riding two wheelers should not cover their faces. (Girls in Pune cover their faces while riding their vehicles to protect themselves from the heat and pollution.) The rationale behind issuing the Fatwa was: it is difficult for family members to recognize girls who have covered their faces and who may be going out with their male friends. They are prohibited from using mobile phones as well, because with mobile phones, they can talk to any male friend without the knowledge of their family members."*

- Manisha Gupte

In every-day life, gender means certain roles and beliefs which are based on patriarchy. If these roles and beliefs change but the underlying construct of patriarchy is left untouched, then inequality will continue. It will simply assume a new form. For example, assume that two siblings (a boy and girl) have been brought up in a gender sensitive manner and that the boy turns out to be of a gentle nature while the girl becomes strong and firm. In spite of this if dowry is given for the girl's marriage and a house is given to the boy (at the time of marriage) then gender based inequality has not been removed. It is essential to address patriarchy for ushering in gender based equality.





# 2

## Patriarchy

Resource Person	Jaya Velankar
Duration	90 Minutes
Methodology	Lecture

### Objectives

- ☐ To understand the historical processes of patriarchy, how these were implemented, what strategies were used to minimize resistance
- ☐ To understand which institutions were created to strengthen patriarchy
- ☐ To see how patriarchy survived through the changing modes of production

### Patriarchy : A System of Discrimination

Our society is divided along the lines of class, caste, race, religion, language, gender etc. and it is essentially an unequal society. Inequality is not natural, it is the result of prolonged historical processes. Patriarchy too is a historical process. Patriarchy is a system in which a man dominates, suppresses and exploits women, children, dependents and also men in his family.

#### Defining Features of Patriarchy

- Men have controlling rights over private property.
- Property passes from one man to another.
- A woman lives in the house of her husband after marriage.

### What were the Historical Processes of Emergence of Patriarchy?

- During pre-historical times, staying alive was a struggle. Danger lurked from



every corner: from wild beasts, natural calamities and from lack of food. As mortality was very high, the chances of survival increased if the tribe had more members. All group members were equal and shared food among them. Collecting fruit, tuber and hunting were main activities for procuring food. There was no certainty of where and how the next meal would come from. Humans had just begun to sharpen small stones to help them in hunting during this phase.

- Then igniting fire was discovered. This helped human beings to cook their food. It led to increased food security as cooked food remained consumable for a longer period of time. It is believed that women started farming. It's nature then was way different from today's farming. Some women during that era may have observed that, saplings sprouted from the seeds scattered here and there and grew into plants that give grains. Now they realized that they could settle down where they had sown the seeds. It is believed that it was women who invented the technique of weaving cloth. Women also collected herbs and medicinal plants and used them to treat diseases and injuries. All these improvements brought about some security of life in the primitive society.
- There was no division of labour in this society as yet. Women also used to go hunting. This is called primitive communism. In this stage there were no familial relationships like today because it was not known how children were born. There was no regulation of sexuality. It was believed that women were endowed with magic power to give birth to offspring. Therefore this society worshiped mother goddesses as well as natural elements.
- Practice of farming and use of sharp stone tools for hunting led to a significant increase in food security at this stage.
- Practice of agriculture not only increased food security but also created surplus food stocks. Observation of domesticated animals led to unraveling of mystery of reproduction. Implements were used to fight and conquer other groups and enslave them. Stage was now set for emergence of private property. To protect property, women were left at home while men went hunting and conquering other tribes. This led to a change in relations between men and women. Men automatically became owners of wealth that was amassed in battles. This was the beginning of capitalism. Men wanted to ensure that wealth collected by them was passed down to their sons. Women's right over property was thus taken away even before it was granted and they were bound in a relationship of dependence.
- Sexual freedom meant that it was not possible to trace paternity. This had to change. A woman had to restrict sexual relations with only one man so that there could be no doubt about paternity of children. This is how men began to control mobility and sexuality of women. There were no similar restrictions on men because maternity was obvious and unimportant.
- Patriarchy is the basis of gender. Women's activities were confined to the



household because they could be controlled only within this narrow sphere. It was now essential for women to beget children after marriage. Because women looked after children and fed them, responsibility of cooking for the whole family was also imposed upon them. Other jobs which were essential for running the household e.g. washing clothes and utensils, fetching water, collecting fuel-wood, serving elderly persons, tending to sick members, providing hospitality to guests etc. were also assigned to them but no value was assigned to these. Thus women's fertility and labour were controlled and their work was domesticated and devalued.

- Patriarchy gives rise to inequality not only between men and women but also among men. Within a family, there is a hierarchy among men, based on their relationship and age. Conquerors and conquered males would also never be equal.

## **Origin of Caste System**

At this stage, this society now started deciding who would do what kind of work. This was the beginning of caste system. Tasks that required hard toil, were dirty but essential, tasks that fetched low income and tasks that did not yield wealth were assigned forcibly to lower castes and people in these castes were called impure because they did these tasks.

The powerful made rules for their own gain. Then these rules were codified in the scriptures. These rules became the basis of exploitation and to ensure that they were not contested, lower caste people and women were forbidden from reading the scriptures.

## **Origin of State**

Did women and lower castes not oppose this unequal, exploitative system? Why did they meekly accept it?

Answer to these questions takes us to the origin of state. Government came into existence to consolidate interests of men, warlords and vested interests. To maintain the status quo, the state codified the rules and used these against those who opposed the system or rebelled against it

## **Hegemony of Patriarchy**

However use of violence beyond a point leads to loss of its coercive power. Violence is effective only when used sparingly. Women who submitted themselves to the dominance of men were provided privileges. Thus in exchange for women's sexual, economic, political and intellectual slavery, they were made party to the power of men of their class in exploiting lower class men and women.



Various techniques were used to subjugate and control women. These included : conditioning them since childhood into thinking that women have a different role to play, deficiency of education, ignorance of own history, dividing women by introducing duality of respectable women verses fallen women, use of persuasion, punishment, bribery and force to deprive them of power, co-opting women who accept patriarchy and allowing them to share its benefits etc. Patriarchy can thus be compared with power of fatherhood: we love our fathers and are at the same time, scared of them.

Family, judiciary, armed forces and police, economic system, media of communication etc. are other institutions in society which like state, serve to entrench patriarchy.

### **Patriarchy and Industrialization**

With the onset of industrialization, men began to migrate in large numbers to cities which housed large factories. Their women followed them for taking care of their needs of food, sex, laundry and house keeping. Back in villages they participated in a number of economic activities like goat rearing, poultry, agriculture etc. Coming to the city they were isolated and became completely dependent on their husband for their economic needs. To a great extent, they became victims of domestic violence. The basis of industrial profit was also women's exploitation.

### **Patriarchy in the Era of Socialism and Post-Socialism**

In socialist countries, large number of women got jobs in public sector. They became entitled to social welfare benefits like crèche etc at the work place. It seemed that this was helping create cracks in the patriarchal social structure. However, today, wave of privatization has submerged all those gains. In these times of globalization, service industries are growing fast. However, they favor only those women who are young and look attractive. These industries equate women with their bodies. Uprooting patriarchy has therefore become more pressing as well more difficult today.





## Inter-Sectionality of Human Rights

<b>Resource Person</b>	Manisha Gupte
<b>Duration</b>	90 Minutes
<b>Methodology</b>	A Game, Lecture, Discussion

### Objectives

To develop understanding about

- ☐ Intersectional nature of human rights
- ☐ Inter-relationships between different rights and opportunities
- ☐ Inter-relationships between civil-political and socio-economic-cultural rights
- ☐ How different conditions of empowerment and disempowerment affect our rights
- ☐ How discrimination affects people and negates their decision making ability and access to rights

This session began with a game "Power Walk". The aim of having this game was to help participants experience the inter-sectionality of human rights, to bring human rights from intellectual level to experiential level. In this game, each participant is given a role to play, for example, "you are a 30 year old widow staying in a rural community" or "you are a 35 year old woman working at executive level in a multi-national company ". The group is requested to carefully read their roles. They are asked to imagine themselves as the character they have been assigned. They are given some time to absorb their role so that they get accustomed to think from that role's point of view.

In an open ground, all the participants are made to stand in a line. They are asked questions from a questionnaire. Same questions are asked to everyone. The question may be that "Will you be free from torture in the next few weeks?" or "Will you have opportunity for higher education?"



The answers are binary (yes or no). If the answer to a particular question is 'yes', the character moves one step toward. If the answer is 'no', the character moves one step backward. This pattern is repeated for each question. Nearly thirty such questions were asked.



At the end of the game, all the characters

would be at different positions on the field.



Each one is asked to turn around and see for themselves where different people are located.

In case there is a wall in the front, the participants are told that that is the wall of resources. All of them can now run and take space against it. If there is no wall, a make believe wall is made.

We find that the ones in the front have easiest access to the wall, whereas those at the back do not get any space (some who are too far, don't even try to run as they know that they will not reach the wall in time). The group is then led to have a discussion.



## **Discussion After the Game Was as Follows**

- After this game participants were some what quiet and disturbed.
- They shared their feelings that arose while playing the game.
- Those who played a powerful character felt powerful and those playing powerless felt powerless.
- A feeling of terror, helplessness, difficulty, hopelessness, there is nothing on my side, I am nothing, depression when all the answers came negative, if a answer came positive, it was felt that something is happening, I am a living corpse
- While playing this game the participants experienced the feelings of not just the powerless but also of the powerfulness. One participant felt that before starting the game she was thinking if there was a way of winning this game



by cheating. But when she got a role of a thirty five year old woman having a high opposition in a multinational company and as she started getting all the answers positive, she realized that she can easily reach the line of resources.

- Those with a powerful character also saw to it that the others did not get a place near the line of resources.
- One participant said that she made extreme efforts to run near the line of resources but was unable to make it, hence she felt extremely bad about it.
- The ones left far behind did not even try. They were clear that they would never be able to make it, hence why make the effort.
- Competition will always be among those who have been left behind. Those who are in the front do not need to run. The resources are within their reach all the time.
- One participant lost her shoe in the race and even injured her leg.
- People may have to lose what they have in the race to claim what they may never get.
- It was also seen that when one line of participants occupying the line of resources was complete, the participants made a second line of their own accord, which helped to understand that those in between emulate those in front of them or those above them. They want to become like them.
- Some times it also happened that when a person, who is powerless in his/ her real life gets a character of a powerful person, he/ she is unable to understand the strength of that character or is unable to trust her good luck. One participant said, "I wondered how one person could get so many positive answers hence I marked many answers as negative."
- It was also realized that the game we are playing today is the reality for crores of people; they are living it every moment. The helplessness and resourcelessness that we experienced for half an hour is a life long reality for many people.
- When we relate this experience to our field situation, we begin to realize why poor people do not come forward to take advantage of schemes, why they do not participate. They have tried so often and have experienced that nothing changes in their life, now they have no hope. It is natural for the people who gain nothing even after hard work, to feel that there is no justice in this world.
- This also helps us to understand why those who are cheated in such schemes which promise of doubling the invested amount in two years are from lower or lower middle income group. Always finding themselves in the rear end of the line, they fear that unless they adopt some measures of this kind to improve their situation, they will be left behind in the race of development.



## **Each Participant's Role was Discussed on the Following Points**

- Why were different people located at different places on the open ground?
- Who were the people with the highest YES scores and who were those who had the maximum NO scores? Why do you think that happened?
- Why were you able to make the above choices?
- Why were you not able to make certain choices?
- What were the factors that affected your choice (or lack of choice)?
- In what way did class, caste, gender, ethnicity, religion, disability, sexuality, political or religious freedom, citizenship, displacement etc affect your rights?
- Did our differing identities have a specific impact on our rights? (For example, in what way did gender affect our choices, in what way did class affect our choices?)
- Why did some of the people get more resources than others?
- In what way can we correct the disparities and discrimination that some people face?

## **This Game and the Discussion Helped the Participants to**

- understand the inter-sectionality of human rights
- see the inter-relatedness of various rights and opportunities
- understand that CP rights are also inter-related to ESC rights and vice versa
- see how multiple locations of disempowerment or empowerment affect your rights
- understand how power 'transfers' itself (e.g. a rich woman may be more privileged than a poor man in class related choices, but less privileged than him in gender related choices and certainly less privileged than a man from her own class / ethnicity).
- how discrimination affects people and negates their ability to access rights or make choices
- how resources go to those who are already privileged in society and how those who are already discriminated against suffer further disempowerment.
- why we can't be neutral about gender, caste, class, disability, ethnicity, sexual preference etc in our work, and why we need to recognise and address

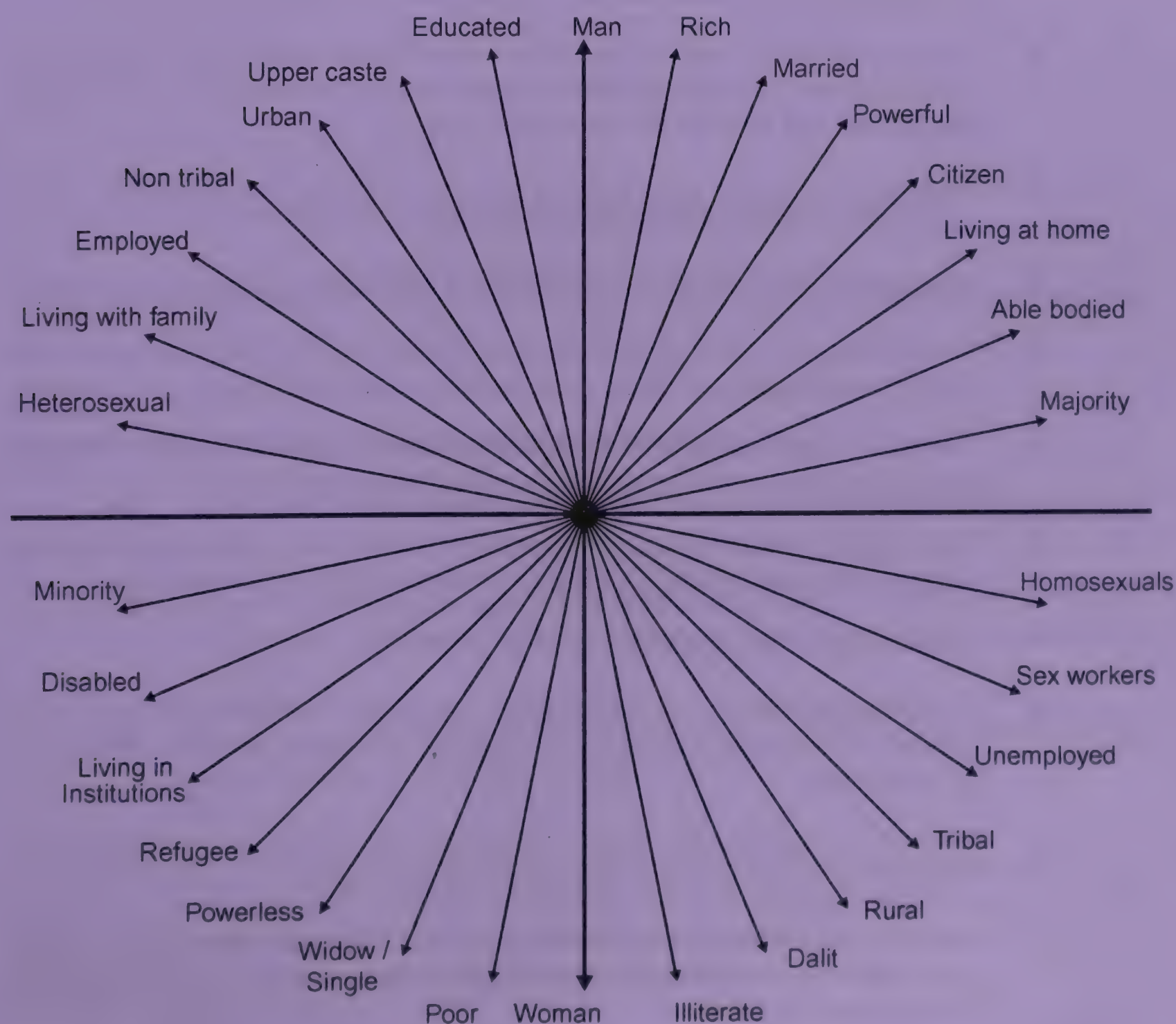


difference as well as discrimination

- realize that substantive (corrective) measures are needed to attain real equality

## Heirarchies

The structure of social discrimination is such that certain identities are privileged, have more opportunities, all paths are open for them as against some others which limit opportunities, options, obstruct the path of individuals. The exercise given below was carried out to understand what these hierarchies of identities are, how they work for some and against others so that only a few can have access to resources. For this, the resource person along with the participants made a list of different identities and tried to see where they would fit in the social hierarchy. This list was made in such a way that all the powerful identities were written above a horizontal line and on the opposite side (below the line) were written the powerless identities in the same context.





## **Main Points Emerging from the Above Exercise**

- Human rights are same for everyone but everybody's identity / situation is not the same.
- A power centre influences another and further increases access to resources.
- Powerlessness in one sphere affects powerlessness in another sphere.
- Power nullifies influence of powerlessness (that power which is highly valued in the society, for example, caste, wealth etc.).
- Powerlessness nullifies influence of power (that powerlessness which is looked down upon, for example, poverty, disability, HIV positive status etc.).
- Every power centre has its own hierarchies. For instance, every woman will not necessarily be subordinate to every man nor are all women equal. Married, mother of a son, widow, single, rich, poor, urban, rural, able bodied, disabled, sex worker, HIV affected etc. all these women will be at different levels in the hierarchy.
- Those in the upper ranks of the hierarchy will face less competition than those in lower ranks. For example, there will be more quarrels in the ration shops. You will not see them in the shopping malls.
- Quarrels will occur where resources are scarce, not because of the quarrelsome nature of the people involved.
- When people are at the rear end; their dreams, like their vision also become limited.
- It is not that their aims are any less but that they do not find options in their present conditions.
- The psychological effects of being left behind are significant. The feeling of being non-entity can make a person depressed and fatalistic.
- The more the combinations of the identities above the horizontal line in one's favour; the higher will be the position in the hierarchy and vice versa.
- Power is fluid. It is not static.
- Special measures will have to be taken and support systems will have to be created in order to equalise the situation in favour of those below the horizontal line.
- Those in the upper ranks do not wish that the rest should organize and rebel. Hence they create divisions among the people below.
- When we are at the upper level in the hierarchy, there are further opportunities to climb up and in the reverse situation; paths tend to become more congested and the space, limited.



# 4

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## Discrimination

Resource Person	Manisha Gupte
Duration	90 Minutes
Methodology	Slideshow, Discussion

### Objectives

- ☐ To understand the difference between discrimination and violence
  - ☐ To know the types of discrimination
  - ☐ To define discrimination
  - ☐ To discuss ways of eradicating discrimination and inequality
- 

### Difference Between Discrimination and Violence

#### *Are the terms discrimination and violence similar?*

- Violence is seen, where as it is difficult to see or show that discrimination is done.
- Every physical injury can not be said to be violence. For example, if some one throws a ball and the ball hits a third person, then it can not be called violence
- But if person 'A' throws stone at 'B', then it is violence even though 'B' may some how escape from being hurt.

The key words in defining **violence** are **intention, power and control**. Intention is more important than the result in defining violence. Violence is usually perpetrated by the more powerful on the less powerful to keep the latter in that position. The weaker your position is in the society, the stronger is the magnitude of violence.



Those who are abused are more likely to be discriminated against and vice versa.

**Result** is more important in defining **discrimination**. For example, there is a left over chapatti in the household. If I eat it myself and give it to my daughter and do not give it to my husband or the son, then this is discrimination. My intention may be to familiarize my daughter with eating stale food in case she would have to eat the same at her marital home and I may be treating myself in the same way, still this is a discriminatory behavior.

Counter-violence occurs when those who have faced violence for too long, react to it violently. This too is deplorable but in this case we must tackle the violence first and then counter-violence.

## Forms of Discrimination

- Discrimination can be historical, current or cross cutting
- For example, male preference is an historical form of discrimination and sex selective abortion is a current one.
- It can be intentional or unintentional. If you organize a meeting in a place which does not have ramps, it is an unintentional discrimination against the disabled.
- It can be direct or indirect. If somebody curses the widow when she is passing, it is direct discrimination and if a group organizes Haldi- Kumkum to get women together, this is indirect discrimination against the widowed women who are forbidden to take part in it.

The intent as well as the result is important in terms of understanding discrimination

## Defining Discrimination

Article I of the CEDAW defines discrimination as any distinction, exclusion or restriction which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise of all rights in the social, cultural, political and economic spheres.

## Removal of Discrimination

- Discrimination perpetuates itself, so people who suffer from past discrimination are at greater risk of being further discriminated against
- Discrimination in one area leads to discrimination in other areas of life too
- Discrimination has to be actively removed



- Removal of discrimination requires special measures in favour of those who are discriminated against

## **Addressing Discrimination and Inequality**

- There are four people in a race – the first one has branded shoes, the second one has slippers, the third has no footwear and the fourth participant has no feet.
- The ground on which they have to run is uneven and strewn with pebbles and thorns
- Who do you think will win the race? How did you know that before the race? Will it be a fair race?
- What would be needed to “equalise” the chances of the participants?

Removal of discrimination requires special measures in favour of those who are discriminated against. Why do people oppose job reservation? Here the resource person shared an experience of working in a village in the initial phase of her career. A woman from the same village came to her to inquire whether there was any vacancy suitable for her son. The resource person asked how far he had studied. She replied that he was eighth pass. Since the minimum requirement was 10th pass, she said that the boy's education was less. Hearing this, the woman suddenly became angry and asked, "How can you say that he is less educated? I have tied knots to my intestines so that I do not feel the hunger. What have I not done for him so that he should complete his studies and you are telling me that he is less educated?"

*After this sharing, many participants came up with their experiences of discrimination.*

- One of them shared that when they visited slums or bastis and asked whether people discriminated between girls and boys, they usually declined. But when we discussed what girls and boys did through the day, they began seeing that girls were indeed being discriminated against.
- Here the resource person shared about a value education programme that her organization runs which exposes children to the concept of gender equality. It has been observed that where girls used to be late in reaching school as they had to help at home in washing vessels or other jobs, now they are reaching in time as their brothers are helping them in the household work.
- A participant from Chhattisgarh said that in her region, while having mid day meals, Dalit children were made to sit away from the rest of the children and they had to bring their own plates. When she published this story in the news



paper, the state government issued a notice that this be stopped with immediate effect and if continued, the concerned officials would be held accountable.

- Another participant shared that the upper caste people of the community where she was working treated her with great respect and love only until they came to know that she belonged to Dalit community. Later, they stopped communicating with her.

The resource person shared that they have decided that in the programmes run by the organization only Dalit women would prepare food. The meetings are kept in Dalit locality only. It is important to understand difference between choice and inability. Upper caste people may go to Dalit basti. If they do not go, it is their choice. But Dalit people can not go to a upper caste person's house for a meeting, can not eat in their house. It is their inability. It is also important to know the difference between serving food and putting it in a plate.

She also shared experiences of villages of Maharashtra. Shiv Jayanti (birth anniversary of King Shivaji) is celebrated thrice in a year. King Shivaji's photo frame is placed in the main square of the village and whole village takes part in the celebrations. On the day of Ambedkar Jayanti, Dr. Ambedkar's photo frame is placed only in Dalit locality and only Dalits participate in the function. In the procession of Ambedkar Jayanti, Shivaji's photo frame is kept along with Dr. Ambedkar's but the reverse is never done in the procession of Shiv Jayanti.

### **Participants' Questions**

*Question :* How to sensitize those who have not experienced discrimination?

*Answer :* If something is done to shake their beliefs, to make them think, this process can then be taken further.





# 5

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## Approaches to Equality

Resource Person	Manisha Gupte
Duration	90 Minutes
Methodology	PowerPoint Presentation, Slideshow, Lecture, Discussion

### Objectives

- ☐ To know about the different approaches to equality and how each one affects the rights of people
  - ☐ To think of ways of moving from discrimination towards equality
- 

### Different Approaches to Equality

The term equality means different to different people. How one understands equality determines whether one upholds the rights of people or undermines them. Let us see what these different approaches are.

#### The Equivalence Approach

Those having equivalence approach think that people do not need equal rights, they need 'equivalence' in rights; according to the roles and responsibilities they perform at home and in society.

Thus, women's lesser wages can be justified in this approach, because socially men are expected to do the earning for the family.

"They are not similar, so why should they ask for equal rights"? This attitude results in further discrimination as this approach views inequality as diversity. It considers the inequalities arising out of discriminatory treatment given to some people as natural and proper and does not see the need to address these.



## **The Formal (or Sameness) Approach**

This approach assumes equality between people who are socially unequal.

It does not recognize difference; neither does it do anything to address it. For example, if at a work place, it is assumed that men and women are equal, both will get same facilities and benefits. In that case, will women get maternity benefits?

This approach is based on neutral laws which in effect favour the powerful. For example, laws that are gender neutral will favour men, laws that are disability neutral will favour able-bodied people.

**Example 1 :** During World War II, Japanese government ran 'comfort stations' in thirteen countries to satisfy sex needs of it's troupes. Women and girls were recruited forcibly or deceitfully for this sexual slavery. They were forcibly kept in these stations and on an average each woman was used daily by 20-100 men for satisfying their sex urge. As Universal Declaration Of Human Rights, made after the World War II was gender neutral, crimes pertaining to sexual exploitation were not included in the war crimes, so much so that they were not discussed at all.

A few years ago, a group named 'Youth for Equality' raised this issue of comfort stations and has demanded that the Japanese government acknowledge and apologize for the crimes against women and girls detained in these stations and award compensation to the survivors.

**Example 2 :** Let us suppose that a owner of a news paper does not discriminate between the male and female employees. If he gives responsibility of covering crime beat to a woman employee, will that be equality? If this is done without understanding the difference in the social situation of men and women and without ensuring due safety measures, it will be formal equality

## **The Protectionist Approach**

- This approach recognizes difference but “protects” the person or group that is socially unequal.
- Taking the earlier example of a news paper, this approach would advocate that considering the social situation, a woman employee for her own safety, should not be given the responsibility of covering the crime beat.
- This approach denies equal opportunity and access in the name of protection, thereby perpetuating discrimination and the status quo.



- If a reporter has a limited experience in covering political, crime beat, her chances of promotion are decreased.
- Here, a participant who is a reporter in a leading Hindi paper shared her experience. In spite of being the senior most, she was not selected for the post of the editor. The owner of the news paper thought that she may be competent to do everything else but may be less skilled in maintaining political relations (bribing people).
- People don't need protection (except in exceptional circumstances); their rights do.

### **The Substantive / Corrective / Equitable Approach**

- Does not treat those who are socially unequal as though they were equal where laws and policies are concerned.
- Recognizes difference in order to remove disparity, disadvantage and discrimination.
- Brings in temporary measures of "positive" discrimination in order to make the playing field even. This is the process of equitable distribution.
- Places obligation on the state to correct the environment that discriminates against certain people.
- Has greater possibility of reaching equality of opportunity, access and result.
- Equity is a process, whereas equality is a legal standard and a cherished goal.

### **An Example of the Different Approaches to Equality**

*The resource person explained these terms with an example from her own experience.*

Once she received a phone call from her friend. The friend asked her, "Are you aware that your daughter (who was 16 years old at that time) is the only girl on the football playground where she plays till late in the evening?" Hearing this she was worried as any mother would be.

Had she thought that 'what is the need for this girl to play football with boys till late in the evening, she has always had wrong kind of hobbies, why can't she do something better like learn cooking or studying at home; now I am going to stop her from playing football'; it would have been **Equivalence Approach** which believes that people are not equal and therefore they do not need equal rights.



Had she played down her worry, thinking that since nothing untoward has happened so far, nothing will happen in future, do girls really need any special protection in these days?, come on, we are living in 21st century in a city, boys too are targeted; then it would have been **Formal Approach** which does not acknowledge social inequalities between people.

Had she reasoned that the world has become very unsafe these days, girls should not be roaming about on the streets late in the evening, my daughter should engage in something which many girls are doing and that too in broad day light, for her own safety I will have to stop her from playing foot ball late in the evenings, thus I will be free of worry and she too will be safe; then this would have been **Protectionist Approach**.

The resource person took such steps that her daughter would be safe and her rights too would be safeguarded. She (the resource person) talked to the boys she ( her daughter) played with and helped them realize that their woman friend played with them till late, therefore they could accompany her up to the bus stop (which was quite close) or at least watch her till she reached the main road. Then she called her other friends who were girls and stayed nearby and encouraged them to join football so that the girls could accompany each other and there is gender equality in the game, football does not remain a boys' game. This is **substantive or corrective or equitable approach**.

## **From Discrimination Towards Equality**

- When difference is used to justify difference in access to equal rights, it results in – disparity, disadvantage and discrimination (e.g. gender differences between men and women).
- When difference is recognized in order to remove discrimination, it results in equality (e.g. affirmative action or reservations)
- Difference that is free of discrimination is 'diversity'. We need not correct that, as it adds to the plurality in society (e. g. being men and women, or having different skin colours).

We do not desire to have a society of similar people. We desire to have a society of people who are different but have equal rights.





## Rights-Based Approach

<b>Resource Person</b>	Dr. Ramesh Awasthi
<b>Duration</b>	90 Minutes
<b>Methodology</b>	PowerPoint Presentation, Slideshow, Discussion, work

### Objectives

- To have clarity about the terms needs, wants, demand, freedoms and rights
- To understand the difference between rights and human rights
- To understand the process of converting needs into rights
- To discuss the importance of rights based approach, what are the main actors of this approach
- To discuss the strengths and the weaknesses of this approach
- To understand difference between rights-based and needs-based work

The session began with an exercise to help distinguish between the concepts of needs, rights and human rights. The work sheet given for this exercise is attached in the end of the session.

### The Points that Emerged from the Discussion are as Below

- **Needs** : Things or services which are essential in order to survive with dignity
- **Wants** : Things or services which we may want but which are not our needs or rights. For example, transport is our need but having one's own car is a desire or want.
- **Demand** : If the want or desire to purchase an object or service is backed by



purchasing power, it becomes a demand. This term is used here in the context of markets, not in the sense of demanding fulfillment from the Government.

- Needs change depending on the individual choices, situation, age, period etc.
- Rights are same for all individuals.
- **Freedom** : We have freedom to speak but it is not necessary that we speak. The right to speak or expression gives us protection from violation.

### **The Process of Converting a Need Into a Right could be as Follows**

- Identify the need - it is establish whether individual need or collective need.
- Get a group consensus.
- Stake your claim with an appropriate authority - mostly the state.
- Putting people's pressure from outside to pressurize the state to take action.
- Drafting a bill with the support of people, ngo's and people's organizations.
- The bill becomes an act when tabled in the parliament, discussed, passed there and then signed by the president, and notified.
- Setting up of redressal mechanism to achieve justiciability
- To make sure that no previous right is eroded.
- To try for expanding the content of previous rights and creating new rights

### **Needs-based Approach**

- All need may or may not be fully met, depends on the wish of the person fulfilling the need
- Action may fluctuate, can be arbitrarily decided or withdrawn
- Needs are identified by provider, a client -patron relationship is established
- May be reduced depending upon the decision of the provider
- Sense of benevolence -
- No consequences to the provider if not met
- Non-fulfillment becomes crucial only when needs of a large section of a society are affected, *for example* drought situation or malnutrition or starvation deals on a large scale



## **Rights-based Approach**

- Enforceable by law
- Not arbitrary but according to established principles and standards
- Are negotiated and the bearer of the rights have a say
- Dynamic and open to expansion
- Fulfilled because there is a right
- Consequences in terms of accountability to mechanisms and remedies for claiming rights
- Violation of a single individual's rights is a 'wrong'

## **Human Rights and Rights**

- All rights are not human rights, and all human rights may not be rights. Human rights are fundamental rights, neither created by governments nor by international treaties. They are universal, intrinsic and self evident and are the rightful entitlement of all human beings. They are deemed essential for all human beings to lead a life of dignity and fulfillment.
- They need to be incorporated into a legally binding agreement if they have to be protected, enforced and monitored. .
- Rights can be created by formal law or a constitution, or may be based on custom and tradition. To be able to claim rights, they have to be codified through law and policy. Violations have to be addressed and remedies claimed through institutions and procedures of redress. Under certain circumstances rights can be temporarily withdrawn or curtailed, but under no pressure, can our human rights be withdrawn.
- Rights, especially customary laws can violate human rights, e.g. sexuality laws of a state can be against non-normative sexuality. However, human rights do not violate rights of the marginalised.

## **Sources of Rights**

- International Human Rights Law
- National Constitution / Bill of Rights etc.
- National Law (Federal or State)



- Customary Law
- Case Law

### **The Essential Players in the Right-based Approach are**

- The rights holder ( often the State)
- The rights bearer ( individuals or groups)
- The provider or those responsible for fulfillment of the right (could be the state or non state actors)
- The redress mechanisms for justiciability, when violations or non-fulfillment occur.

### **Strengths of the Rights Based Approach**

- Places an obligation on the State for their fulfillment
- Cannot be reduced or permanently withdrawn
- Can be expanded and universalized
- Accountability of the rights- holder and setting up of redress / justice mechanisms can prevent violations

### **Limitations of Rights Based Approach**

- Could become reductionist and apolitical
- One right could be pitted against another (right to practice one's culture against right to abortion )
- One right may be withdrawn in favour of another right (curtailment of political rights in the name of national security, e.g. post 26/11)
- Reforms may be met but the overall systems that perpetuate inequality may be overlooked.
- Unless enabling conditions are created, true entitlement of rights may not happen.
- Does not deal with allocation of resources or removal of structural violations.
- Can be co-opted by neo-liberal market forces or even the WB, IMF, etc.



May not always involve community mobilization or politicization. thus affecting it's acceptance and implementation

## **Rights-based / Needs-based Work Methodology**

(A case study for group work)

There is a hamlet of 20-25 families of landless tribals on a mountain near village Jamroodpur. Their 30-35 children work on people's farms, homes, poultry, dairy etc. instead of going to school.

Your organization started self help group (SHG) with the women. In one of the meetings of SHG, Pankunwar, a tribal woman, who desires to educate her children, raised this issue with you.

### **What Steps will You Take?**

- Will you make a survey of the hamlet to gather data?
- Will you have your organization start a school for the tribal hamlet?
- Will you take help of a generous tradesman from a nearby city to sponsor this school?
- Will you demand that the education officer starts a school?
- Will you give non-formal education to the tribal children?
- Will you admit all the children in the school in the village?
- Will you take legal action against those employing the children?



What are the Following **Things / Conditions - Needs, Rights or Human Rights?** Mark in the Appropriate Box

THINGS / CONDITIONS	NEEDS	RIGHTS	HUMAN RIGHTS
Food	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electricity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Land	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Roads	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
House	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Health	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clothes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Voting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Freedom	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
To Contest Elections	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Primary Education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Higher Education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Car / Cycle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
News Paper / T.V.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bus / Railway	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toilet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marriage / Family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Divorce	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Violence Free Atmosphere	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inter-caste Marriage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pollution Free Environment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Love / Goodwill	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Safety	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Work / Profession	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wealth	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



# 7

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## State Obligations

<b>Resource Person</b>	Dr. Ramesh Awasthi
<b>Duration</b>	90 Minutes
<b>Methodology</b>	PowerPoint Presentation, Slideshow, Discussion

### Objectives

- ☐ To understand what the obligations of the state are towards human rights
  - ☐ To discuss how the process should be so that the human rights are ensured
  - ☐ To see what the obligations of the state are towards this process
- 

The session began with discussing what separates a rights based approach from a need based approach. The distinguishing factor was state obligation.

This session aimed at understanding what obligations the state has towards human rights. These were described as follows:

State obligations can either be positive- requiring the State to do something or take an action, or negative-requiring the state not to take action that will destroy the existing standard.

### State has Following Obligations With Regard to Human Rights

- Obligation to Respect
- Obligation to Protect
- Obligation to Fulfill
- Obligation to Promote



State includes judiciary, police, army and elected representatives. Sometime protectors of people become the perpetrators as was seen in Gujarat genocide, in Nandigram, many instances of displacements.

### **What does these Obligations Mean?**

- **Obligation to Respect** : This negative obligation requires state parties to refrain from acting in a way that deprives people of a guaranteed right. It recalls the state to refrain from interfering directly or indirectly, it includes duty 'not to violate' and the duty to 'uphold and implement'. Thus this obligation tells states not to displace people without giving viable alternatives, not to do arbitrary arrests, not to search of house without warrant, not to torture people or conduct unfair trials, not take away political rights if one has more number children than what the state has prescribed. The State will not allow any of its agent (army, police etc.) to do so.
- **Obligation to Protect Rights** : States are also required to take action. States need to prevent third parties from destroying existing human rights standards. For example, when fishermen bring trawlers for fishing, rights of fishermen using traditional methods of fishing are put in jeopardy. It is the state which has to ensure that such endangering does not take place.
- **Obligation to Fulfill** : requires states to adopt appropriate legislative, administrative, budgetary, judicial and other measures towards full realization of rights and to ensure that the human right standard is attained. Thus a State has to allocate resources for running health programme of a country, ensure easy accessibility, availability of doctors and medicines and so on while fulfilling the right to health.
- **Obligation to Promote** : To take steps for nurturing rights, removing the obstacles because of which people may not be able to enjoy their rights, the State has to create enabling conditions for them to exercise their rights. The state is also obliged to remove impediment (social customs, inequality) in people's access and enjoyment of rights.

### **How should the Process of Ensuring the Human Rights be Non-discrimination**

One fundamental aspect of State obligation is the principle of non-discrimination, which emphasizes that everyone is entitled to the enjoyment of human rights irrespective of his or her age, colour, gender, ethnic, social or national origin, political or other opinion, property, birth, health status or disability. Thus states are obliged to

- eliminate discrimination by abolishing without delay all discriminatory laws.
- eliminate discrimination by refraining from discriminatory practices in



implementing laws, regulations and programmes.

- take affirmative action to eliminate conditions that contribute to discrimination

### **Progressive Realization of Rights**

The state must prove that it was unable rather than unwilling to safe guard the rights of it's people. It is of utmost importance that the State should work towards progressive realization of human rights within the necessary time frame. It is answerable for its acts of omission and commission.

Rate of progress should not be so slow that it takes a very long time to reach international standards. Preparedness or efforts to provide requisite resources / funds for increasing the speed of work should be demonstrated.

### **Participatory**

A state is obliged to ensure active involvement (partnership) of people in attainment of rights. People should participate in decision making regarding where, what type and nature, how of the work undertaken to ensure their rights.

### **Using Effective Remedies**

If any individual's rights are being violated then the state is obliged to look into the following aspects of the matter,

- Was the violation avoidable? Did the state make adequate arrangements for the prevention?
- Has complete investigation of the case (of violation) been made?
- Has due judicial process been instituted against the guilty person who has encroached on the rights of another or others and he been punished?
- Has the person whose rights the state has been unable to protect received optimum compensation?
- To prevent discrimination and encroachment upon rights of people, it is not enough to make necessary statues. Supervision and control of private sector players (industries, companies, institution, organizations, business groups etc.) as well as result of polices and programmes are also essential.

After the fire to railway bogeys at Godhra, was any effort made to stop riots in Gujrat?

### **International Obligations of the State**

*After signing international treaties on human rights, the state should,*



- Make or amend appropriate laws on the lines of international conventions and incorporate them in the constitution of the country.
- Take responsibility of the finding out why it is not making adequate progress towards international standards. Also establish whether this lack of progress is due to deficiency of willpower or resources.
- Lack of resources cannot be cited as the reason except in the short run. Clear-cut information regarding steps taken by the state to raise resources must be given. It is state's obligation to do so.
- The state is answerable in all cases where individuals or groups are, either deliberately or unknowingly, deprived of their rights or their rights are abridged.

### **Participants' Questions**

*Question:* State answerability is never seen. Not just that but the leaders of poor people become rich in the process of becoming leaders. Is there no solution to this?

*Answer :* We will have to provide the solution through decentralization, participation, spread of awareness and organization.

*Question:* Our representatives keep signing different treaties from time to time. Is it not their responsibility to ensure that the treaties are being implemented in the country?

*Answer :* The government has to report on these matters. NGOs may send alternative reports. It is better if a number of NGOs come together and prepare this report. Otherwise different pieces of information and statistics given by different NGOs would not tie up.

One participant agreed with the above point and said that different sources are citing different figures of number of persons killed by Naxalities in Bastar district in Chhattisgarh. This leads to confusion and it gives an opportunity to the government to be free of its obligations





# History of Human Rights

**Resource Person**      Manisha Gupte

**Duration**                90 Minutes

**Methodology**            Lecture Method

## Objectives

- ☐ To learn about the evolution of the concept of human rights.

Human rights are rights necessary to live life with dignity and honour. These rights are vested within all humans at birth.

Legal rights are those that are recognized by the government - these may differ from nation to nation, but human rights remain unchanged throughout the world and are uniformly applicable to all human beings.

## History of Human Rights

### American and French Revolutions

The concept of Human Rights first emerged during the national revolutions in America and France. The American revolution of 1770 sought to gain independence from British rule. Several glimpses of human rights were seen in the American Declaration of Independence and the American Constitution that were drafted soon after the revolution. Around the same time, France erupted against the atrocities of the ruling regime. Hundreds of prisoners broke out of the Bastille prison and the battle against the aristocracy intensified. The revolution lasted from 1789 to 1799. Three very important concepts emerged from this revolution viz. Liberty, Fraternity and Equality.

It is ironic that the French revolution that attempted to establish these concepts was itself witness to extreme bloodshed. The American revolution was not without irony of its own. While America adopted the Declaration of Independence, its first President had 322 slaves



of his own. The revolution gave recognition only to the rights of white men who owned property.

### **World Wars and the Need for Human Rights**

The idea of each individual's basic rights emerged in the 20th century. Two World Wars were waged in the 20th century resulting in widespread destruction. After the first World War, an organisation by the name of 'The League of Nations' was established to promote world peace. Despite this, the second World War erupted soon after, killing millions of people. 20 million people lost their lives under Hitler's rule. In his quest to establish a supreme race, Hitler's army targeted all those who were not "Aryans", killing Jews, people with disabilities, socialists, communists and homosexuals. The other western nations could do nothing to stop this reign of terror.

### **Universal Declaration of Human Rights**

In 1946 after the second war 'United Nations Organisation' was formed to accomplish what the 'League of Nations' had failed to do. To ensure that atrocities of the kind that occurred during the second World War are not repeated, the Universal Declaration for Human Rights (UDHR) was drafted and adopted on 10th December 1948. This day is celebrated throughout the world as Human Rights Day. The UDHR is considered to be the source of all human rights.

The UDHR was drafted immediately after the second world war, and has numerous provisions relating to wars. It includes several "negative rights", which indicate which rights a nation must not violate. The declaration also includes "positive rights" – rights which inform a nation "what it must do".

The world is not constantly at war but even in times of peace people's rights are violated. Thus, a need was felt to extend the scope of human rights. After the adoption of the UDHR, with time, several other treaties and Conventions were drafted which address the rights of people in special situations and those of marginalised groups.

### **Division of Human Rights**

It is an important feature of human rights that they are indivisible. After the second world war a long drawn "cold war" erupted between the capitalist and the communist nations, which led to the division of human rights. These rights were divided because America and West Europe were giving recognition to civil and political rights, while former USSR, China etc. to economic, social and cultural rights. After the end of the second world war this "cold war" continued over this issue. In 1966 two separate Conventions were adopted which divided human rights into two categories,

- 1 International Covenant on Civil and Political Rights (ICCPR).
- 2 International Covenant on Economic, Social and Cultural Rights (ICESCR).



## **Other Human Rights Treaties**

***Several other treaties were adopted after these. Some of the important treaties are,***

- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- The Convention on the Elimination of Racial Discrimination (CERD)
- The Convention Against Torture (CAT)
- The Convention on the Rights of the Child (CRC)

## **Some Contradictions**

- The United Nations adheres to the values of Human Rights. Yet individuals can not become members of this body, only nations can. Citizens are represented by the very Governments, who are often the biggest violators of their rights.
- When the United Nations was founded, only independent nations could become members. The colonies subject to blatant denial and violation of rights at the hands of “independent” nations were not eligible for membership!
- The Indian Constitution, looked upon as one of the best in the world, is not free of paradox. Even though human rights are non-hierarchical, in this Constitution they have been divided into Fundamental Rights and Directive Principles of State Policies, thus putting them in a hierarchy.
- The Indian Constitution also divides rights. Most Fundamental rights pertain to civil and political rights. Economic, social and cultural rights find place in the Directive Principles – which are not justiciable.

As our understanding of humanity evolves, the definition of human rights also keeps expanding. The challenge is to bring these concepts into practice.









## Human Rights and Related Concepts

Resource Person	Malavika Vartak
Duration	90 Minutes
Methodology	PowerPoint Presentation, Lecture Method

### Objectives

- ☐ To develop an understanding of human rights and related concepts.

## Understanding The Human Rights Framework

### Needs and Rights

- **Wants / Desires** : An object, idea or service that a person likes and wishes to have eg. clothes of a certain colour.
- **Needs** : An object or service necessary for survival e.g. water, livelihood. A person may have several needs, some are basic needs and some are not. It is not necessary for every need to be a right.
- **Rights** : Rights emerge from needs. These are needs that are necessary to live life with dignity.

### Is there a Difference Between Needs and Rights?

A person may survive if his/her needs are met, but to live life with dignity it is essential that a person's human rights are fulfilled.

### If Needs and Rights are Interlinked Why Should We Use the Rights Based Approach?

No one is responsible for fulfilling needs, but rights assign the responsibility on someone. The State and other actors are responsible for fulfillment, protection, respect and promotion of human rights.



## **Is there a Difference Between Rights and Human Rights?**

Constitutional rights are available only to the citizens of a country, but human rights are universally applicable. Human rights uphold human dignity. Human rights are rights inherent to all human beings, irrespective of their nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. (Article 21 of the Constitution of India ensures the right to life. Right to life “with dignity” is inherent in this right.)

Human rights are applicable to all humans. They can not be snatched or even given away. Human rights must be recognized for the protection, fulfillment, respect and promotion of each person's rights. In a 1980 court case, it was argued by the employer of a forced labourer that the labourer himself had given up his rights in order to repay a loan. The Supreme Court ruled that no human being can give-away his/her rights – even if it is done willfully!

Can children be sold for money? No. It is the responsibility of the government to fulfill each individual's rights. If parents are forced to sell their child for survival, it can be said that it is the State that has failed in its responsibility to provide them with the means of survival. It is very important to analyse the underlying cause of events. People's movements are instrumental in attracting people's attention towards this.

## **Where do Human Rights Find Recognition**

- **International Human Rights Law** : Various treaties, conventions, laws etc. related to human rights
- **National Constitutions** : Rights are enlisted in the Constitutions of countries. Some countries may not have a Constitution, yet human rights are applicable there as well – even though they might not be protected or fulfilled. Under the Taliban rule in Afghanistan, there were gross violations of human rights, especially of the rights of women e.g. they were required to be accompanied by a male relative in public places. They could not even visit a hospital in the absence of a male relative – not even in case of an emergency.
- **National Laws** : Various laws, policies, orders etc.
- **Case Law** : Supreme Court and High Court judgments may be used as supportive arguments in court cases. For example, in a case related to education, the Supreme Court upheld education as a right implicit in the right to life. The court ruled that right to life should mean and secure right to life with dignity. This judgment is often used to strengthen the argument in other cases.
- **Customary Law** : Often customs which have been in practice for several years become the law. Care must be taken that these customs are not regressive and do not violate human rights. e.g. Traditional wedding rituals and the Universal Declaration of Human Rights are customary laws.



**Question :** Are individual rights more important than community/ group rights?

**Answer :** When a right infringes upon the rights of another, the right needs to be curtailed. For example, if during rehabilitation work, a person, to protect his faith, asks for a house away from Dalits', then his demand is not justified. It would lead to discrimination and violate the rights of the Dalit as well.

**Question :** If customary law is applicable over a person, can he/she file an appeal in the court under a uniform law?

**Answer :** Customarily women do not inherit property in India. When the law gave recognition to women's right to property and they went to claim this right, they had to face flak from several people. Even judges discouraged them from approaching the courts. It must be understood that a change in legislation needn't necessarily translate to action on the ground. It definitely is a step in the right direction.

## **Evolution of the Concept of Human Rights**

**Are Human Rights a Product of the 20th Century?** Human rights have always been in existence. However, they were recognised only in the 20th century.

**Are Human Rights a Product of Western Thought or Westernisation?**

The issue of human rights has been raised in every century, in every country. In India Guru Nanak, Gautam Buddha, Kabir, Ram Mohan Roy, Dr. Ambedkar and other reformers spoke for the rights of people. Our understanding of human rights has grown due to the contribution of various people over the centuries.

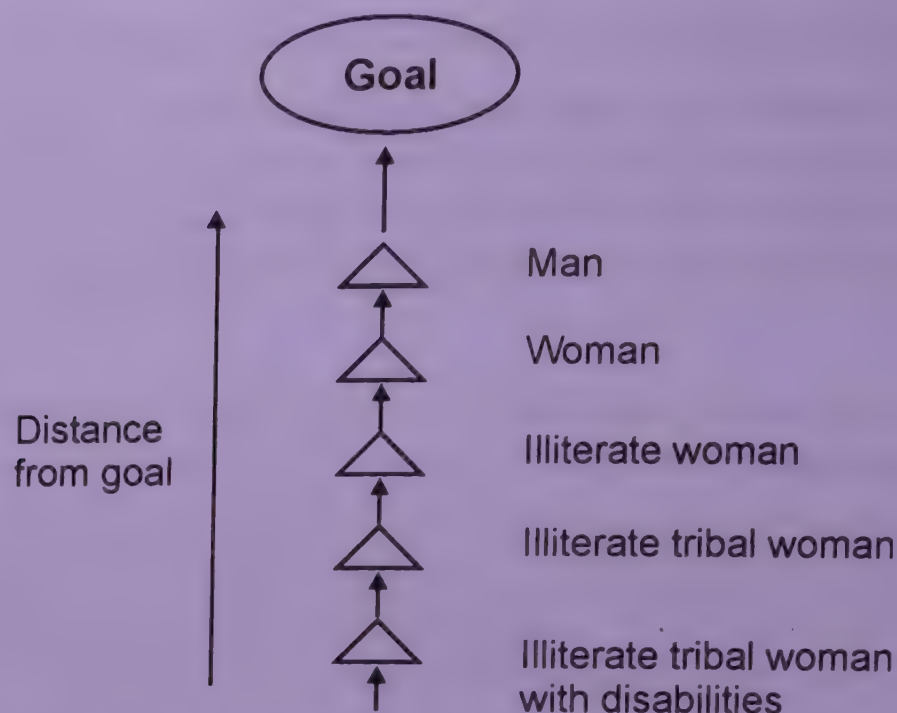
**What is the History of Human Rights?**

Human rights, as we understand them today, emerged in the 17th century. The concept of Human Rights was first mentioned in the English Bill of Rights which was passed in 1689. The 18th century was witness to two big revolutions – The American Revolution (1776) and the French Revolution (1789) which gave the world The American Declaration of Independence and the French Declaration of the Rights of Man and of the Citizen. It is from these that the concepts of life, liberty, fraternity and equality emerged.

**For those Who Say that Human Rights are Universal Can We Say that 'One Size Fits All'?**

- Certain rights contradict culture. These may not be accepted universally (And are therefore not ratified by countries).
- Each individual in this world is unique. Each group's needs are different. Rights are equal for all, but to establish substantive equality, it does become necessary to give priority to the rights of marginalized groups.





### Nature of State Obligations

- **Respect:** States must refrain from interfering with or curtailing the enjoyment of human rights.
- **Protect:** States must protect individuals and groups against human rights abuses.
- **Fulfill:** States must take positive action to facilitate the enjoyment of basic human rights.
- **Can Non-state Actors Also Be Held Responsible For Upholding Human Rights?** Yes, companies, political parties, international bodies and institutions like the World Bank and International Monetary Fund are also responsible for respecting human rights. At the individual level, while we are entitled our human rights, we should also respect the human rights of others.

### Key Concepts

- **Universal :** They apply equally and without discrimination to every person, regardless of their personal characteristics such as race, colour, sex, ethnic or social origin, religion, language, nationality, age, sexual orientation, disability or other status.
- **Intrinsic :** They are inherent to each person by virtue of being human.
- **Inalienable :** They can neither be given nor taken away. They should not be taken away, except in specific situations and according to due process. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law.
- **Indivisible :** Each human right is of equal status and cannot be entirely separated or prioritised conceptually or practically from other human rights.



- **Interdependent** : They do not exist or function in isolation from one another, and the realisation any one human right will depend on the realisation of other rights.
- **Non-Hierarchical** :No human right is any more or any less important than another.
- **Equality** : All human beings are born free and equal in dignity and rights.
- **Non-Discrimination** : It prohibits discrimination on the basis of numerous factors such as sex, race, colour and so on.
- **Intersectionality** :The fulfillment or violation of human rights is determined by various factors.

## **Marginality and Exclusion**

*There is a need to make special provisions for the rights of the following :*

- **Economically Marginalised** : Marginalised on the basis of class.
- **Socially Marginalised** : Deprived due to certain customs, structures of society e.g. Dalits, “criminalised” tribes etc.
- **Politically Marginalised** : Those groups who do not have any influence in politics eg. displaced persons, tribals etc.
- **Gender** : Marginalised on the basis of gender e.g. Women, hijras
- **Age** : Marginalised on the basis of age – children, aged
- **Disability** : Even amongst people with disabilities, those with severe disabilities are more deprived.

There is no clear cut demarcation between these categories. People from any one group may be more deprived than those of another.

It is essential for people working on social issues to understand the concept of human rights. Unless we include a rights based approach in our work, it will be difficult to establish these rights.









## International Human Rights System : United Nations

<b>Resource Person</b>	Malavika Vartak / Ujwala Sakhalkar
<b>Duration</b>	90 Minutes
<b>Methodology</b>	PowerPoint Presentation, Lecture Method

### Objectives

- ☐ To understand the systems and functions of United Nations.
- ☐ To understand how the UN attempts to establish human rights.

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### United Nations

The United Nations Organisation was established after the second World War for the protection of rights of the people. This is a political organization which aims at creating international cooperation. Being a political organization, power and politics play a major role in its functioning, with certain nations exerting more control than the others. Currently nearly 200 nations are members of the United Nations.

Each nation is unique in its geography, its traditions, language, policies etc. The problems they face are also unique. For example, it would be difficult for America to understand the problem of dowry in India. Thus, it becomes difficult to come to a consensus on international issues.

There were similar organizations before the United Nations, but they broke apart for one reason or the other. The success of United Nations can be attributed to the fact that:

- All nations have been assured equal rights.
- The sovereignty of each nation is given utmost importance and the UN follows a policy of non-interference in the internal matters of States.



## **The Purpose and Principles of the United Nations**

The purpose and principles of the United Nations are set forth in the United Nations Charter which came into force on October 24, 1945. The main aims according to the Charter are,

- 1 To maintain international peace and security.
- 2 To develop friendly relations among nations.
- 3 To achieve international co-operation in solving international problems.
- 4 To be a centre for harmonizing the actions of nations in the attainment of these common ends.

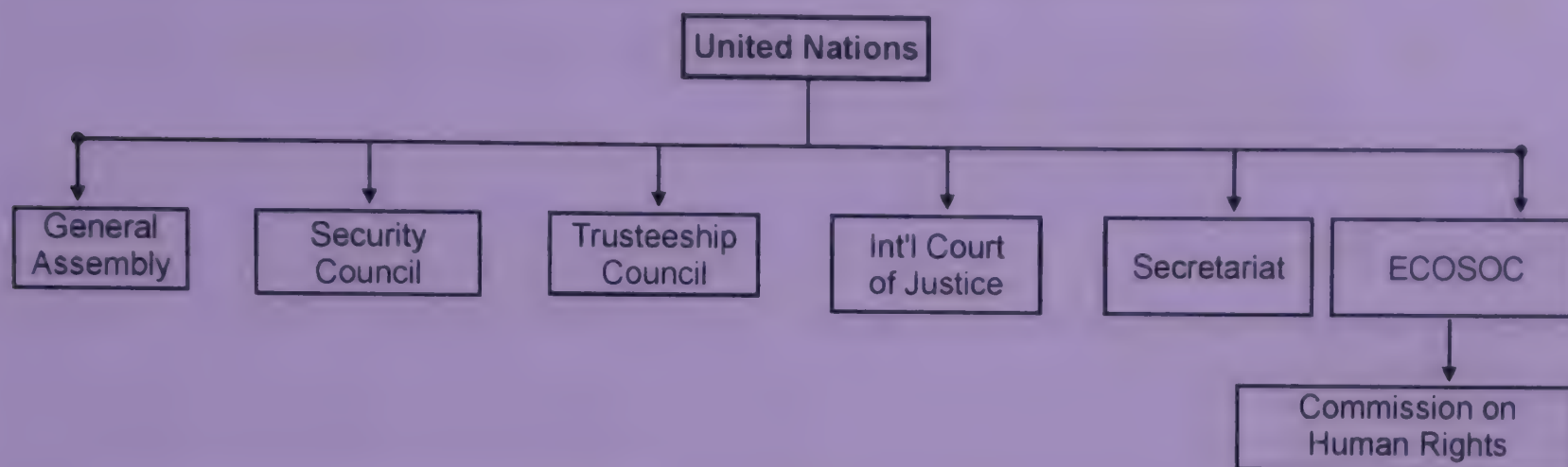
## **Principal Organs of the United Nations**

*The Charter establishes six organs of the United Nations :*

- 1 **General Assembly** : it is the central body of which all 192 Member States of the UN are members. It plays a significant role in the process of codification of international law. It provides a unique forum for multilateral discussion on international issues. It also makes recommendations and passes resolutions on various issues.
- 2 **Security Council** : It has the primary responsibility for the maintenance of international peace and security. The Council is composed of five permanent members - China, France, Russian Federation, the United Kingdom and the United States - and ten non-permanent members.
- 3 **Economic and Social Council (ECOSOC)** : It is the central forum for discussing international economic and social issues, and for formulating policy recommendations addressed to Member States and the United Nations system. The Council has several subsidiary bodies such as the Human Rights Council, Commission on the Status of Women, Commission on Sustainable Development etc.
- 4 **Trusteeship Council** : It has been assigned the task of supervising the administration of Trust Territories (countries that are not independent, or disputed territories etc).
- 5 **International Court of Justice** : It is the principal judicial organ of the United Nations. The Court's role is to give advisory opinions and to settle legal disputes submitted to it by States, in accordance with international law. Individuals or organizations cannot approach this court.
- 6 **Secretariat** : It carries out the diverse day-to-day work of the Organization.



## Commission on Human Rights



*The Commission on Human Rights was founded on February 16, 1946.*

## Function of Commission on Human Rights

One of the earliest tasks of the Commission on Human Rights was to draft The Universal Declaration of Human Rights which was adopted by the General Assembly on 10 December 1948.

The Commission on Human Rights was involved in drafting the

- International Covenant on Economic, Social and Cultural Rights (1966)
- International Covenant on Civil and Political Rights (1966)

Further, by a resolution of the Economic and Social Council adopted in 1967, the Commission is allowed to examine cases revealing a consistent pattern of human rights violations. In its resolution adopted in 1970, the Council established a procedure to deal confidentially with complaints relating to a consistent pattern of gross violations of human rights.

## Special Procedures

- The Commission uses independent experts or special rapporteurs to look into specific issues – these include both country as well as thematic mandates.
- Special procedures' mandates usually call on mandate holders to examine, monitor, advise and publicly report on country mandates or on thematic mandates.



- Additionally depending on the nature of the issue under consideration, the Commission establishes a working group of experts.
- The tenure of mandate holders lasts three years, having served which, they may be reappointed only once.

## **Country Mandates**

Country mandates are mechanisms to address human rights situations in specific countries or territories. For example :

Afghanistan (in operation since 1984), Iran (1984), Iraq (1991), the former Yugoslavia (1992), Myanmar (1992), Cambodia (1993), Equatorial Guinea (1993), the Palestinian Occupied Territories (1993), Somalia (1993), Sudan (1993), Democratic Republic of the Congo (1994), Burundi (1995), Haiti (1995) and Rwanda (1997).

## **Thematic Mandates**

Thematic mandates are mechanisms to address major phenomena of human rights violations. For example:

Enforced disappearances, extrajudicial, summary or arbitrary executions, torture, religious intolerance, sale of children, child prostitution and pornography, arbitrary detention, internally-displaced persons, violence against women, extreme poverty, the right to development, the right to education, the rights of migrants, the right to adequate housing, the right to food, human rights defenders, the right to health, and indigenous peoples.

## **Work of the Independent Experts or Special Rapporteurs**

The work of the independent experts or special rapporteurs depends on their specific mandates but can be broadly divided into:

- Urgent Appeals
- Country Visits
- Normative Work
- Follow-up
- Non-State Actors

The role of NGOs is extremely vital in the work of the special rapporteurs/ independent experts.



## **The Sub-Commission on Human Rights**

The Sub-Commission is a think-tank created by the Commission to assist it by undertaking in-depth research into particular phenomena.

It is composed of independent experts who meet annually for three weeks in August in Geneva to deliberate on human rights issues. The Sub-Commission recommends to the Commission topics that require further consideration.

The Sub-Commission studies are aimed at enhancing the understanding of a topic and recommending to the Commission how to address it. Some of these studies may lead to a standard-setting exercise. Others may lead to the establishment of new mechanisms.

## **Human Rights Council**

The Human Rights Council is the body created by United Nations Member States to strengthen the promotion and protection of human rights around the world. The Council replaces the UN Commission on Human Rights.

On 9 May, 2006, 47 countries were elected members of the Council. The distribution of seats is in accordance with equitable geographical representation (13 from the African Group; 13 from the Asian Group; 6 from the Eastern European Group; 8 from the Latin American and Caribbean Group; and 7 from the Western European and Other States Group).

## **Difference Between the Human Rights Council and Commission on Human Rights**

- Commission's members were selected behind closed doors and then "elected" by acclamation.
- The new members of the Council had to compete for seats, and successful candidates needed to win the support of a majority of all member states, in a secret ballot.
- The Council has a new universal periodic review mechanism, which offers it the opportunity to examine the records of all member States.
- The Council meets throughout the year, whereas the Commission met for only six weeks once a year.
- Unlike the Commission which was a subsidiary body of the ECOSOC, the Council is a subsidiary body of the General Assembly
- During a review in five years' time, member States will discuss elevating the council to a principal organ.



The Council will carry over all the Commission's mandates and responsibilities to ensure that there is no gap in the transition.

A review will be completed within one year from the Council's first session. This review will examine ways to rationalize and strengthen the special procedures and mechanisms including the Sub-Commission on Human Rights

## **Six Core Human Rights Treaties**

There are many universal instruments relating to human rights. The legal status of these instruments varies: declarations, principles, guidelines, standard rules and recommendations have no binding legal effect, but such instruments have an undeniable moral force. Several treaties have been adopted by the United Nations to address specific issues. These treaties are legally-binding for those States that ratify or accede to them. The core human rights treaties include:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Convention on the Rights of the Child (CRC)

When a country accepts one of these treaties through ratification, accession or succession, it assumes a legal obligation to implement the rights set out in that treaty. But this is only the first step, because recognition of rights on paper is not sufficient to guarantee that they will be enjoyed in practice.

## **Treaty Based Bodies**

Each of the treaties has established a "treaty body", a committee of independent experts, to monitor the implementation of the human rights provisions contained in those treaties. These treaty bodies are:

- Human Rights Committee (HRC)
- Committee on Economic, Social and Cultural Rights
- Committee on the Convention on the Elimination of All Forms of Discrimination Against Women



- Committee on the Convention on the Rights of the Child
- Committee on Convention of the Elimination of All Forms of Racial Discrimination
- Committee Against Torture

### **Activities of the Treaty Bodies**

- Examining State Party reports and issuing Concluding Observations on States' compliance to the Treaty.
- Considering individual complaints or communications in cases where the State has ratified the relevant articles or the Optional Protocol.
- Publishing 'General Comments' which are interpretations of thematic issues or methods of work within a treaty.

### **Reporting Obligations of the Human Rights Treaties**

Each of the human rights treaties establishes a framework for regular reporting by State parties on implementation of their obligations under those treaties. The time table (periodicity) for the submission of initial and periodic reports is as below:

- ICESCR : Within two years and then every five years
- HRC : Within one year and whenever the Committee requires (usually every four years)
- CEDAW : Within one year and then every four years
- CERD : Within one year and then every two years
- CRC : Within two years and then every five years
- CAT : Within one year and then every four years

### **Shadow / Alternative Reports**

The Committees may receive information on a country's human rights situation from other sources, including UN agencies, other intergovernmental organizations, nongovernmental organizations (both international and national), academic institutions and the press. Depending on when the information is submitted, issues raised by these organizations may be incorporated in the list of issues or inform the questions posed by members when meeting the State delegation. The committee examines the report in the light of all the information available from all sources. NGOs in India have submitted their reports to bring the non-fulfillment of rights and even atrocities of the State to light e.g. in the case of Gujarat genocide.



The UN system (particularly shadow reports) is an important tool that non-government organizations may make use of for establishment of human rights. Several organizations are making use of this system today. It is however, not sufficient to work at the international level alone. To bring about real change, it is important to work at the grassroots and to bring the benefits/ concerns of one to the other.





## Constitution of India and Human Rights

<b>Resource Person</b>	Dr. Jaya Sagade / Bikramjeet Batra
<b>Duration</b>	90 Minutes
<b>Methodology</b>	Lecture, Discussion

### Objectives

- To acquaint participants with the background of Indian Constitution, its preamble, fundamental and other rights;
- To see how the constitution supplements human rights

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### Background of the Constitution of India

A constitution of any country enjoys a special legal status. The constitution deals with role and responsibilities of different parts of government and also their working procedures. We can take help of judicial machinery for analyzing legal provisions. Our expectations from the court of law are that they take the broadest possible interpretation of legal provisions. The constitution occupies the highest position in the country's legal framework.

After independence, a committee was formed in the country for preparing the constitution. This committee reviewed the constitution of different countries in the world as well as some international covenants on human rights. The constitution was adopted on 26th January 1950. The demand for human rights had been raised under British rule also. Lokmanya Tilak made demand for fundamental rights in 1895. The national convention of Indian National Congress held in 1931 at Karachi formed a committee under the chairman ship of Tej Bahadur Sapru. The report of this committee stressed that the issue of fundamental rights was the most important one. The committee demanded two types of rights: Justiciable and non-justiciable. Justiciable rights are those upon the violations of which any person can move a court of law. Violation does not lead to this action in case of non-justiciable rights. For example, right to work is a non-justiciable right.



On 13th December 1946, Pandit Jawaharlal Nehru, the then Prime Minister, proposed that values of all human rights should be reflected in fundamental rights. This proposal stated that if every person in the country does not get food to eat and clothing to cover the body, our constitution would remain just a piece of paper. We have to reflect on how far these noble intents have been put into practice.

The Universal Declaration of Human Rights (UDHR) was adopted by the UN General Assembly in 1948 and efforts have been made to reflect those rights among fundamental rights in our constitution.

## **Preamble**

We begin our discussion of Indian constitution with its preamble.

*"We the people of India, having solemnly resolve to constitute India into a sovereign, socialist, secular democratic republic and to secure to all its citizens:*

*Justice, Social Economic and Political;*

*Liberty of thought, expression, belief, faith and worship;*

*Equality of status and opportunity;*

*And to promote among them all*

*Fraternity assuring the dignity and the unity and integrity of our nation.*

*In our constituent assembly, this 26th day of November 1949 we do hereby adopt, enact and give to ourselves this constitution."*

The preamble incorporates the substance of human rights. The concept of human rights came into existence for upholding the dignity of human beings. Preamble to UDHR gives a lot of importance to human dignity. Ethics of living are connected with social, economic and political conditions. Constitution of India also incorporates this concern.

## **Fundamental Rights**

Part III of the constitution deals with the fundamental rights. We can maintain that fundamental rights have been enacted for protecting human rights. No activity of government can go against fundamental rights. For honouring these rights the government will have to take both positive and negative steps. The constitution does not guarantee unregulated rights to anyone. It places restrictions so that a person does not violate the rights of others. The constitution specifies that these restrictions be logical and rational. If our fundamental rights are violated, we can move the court against the government. We can demand justice against violations by other persons also. Fundamental rights specified from articles 12 to 35 constitute the foundation of social and economic rights.

**What is State?** Definition of state has been given in article 12. What is this state from which we seek justice? Government of India, parliament, state governments and legislative



assemblies and all local governments under the control of Government of India are included in the definition of government.

**Article 13** specifies that any law that goes against fundamental rights, violates them or reduces them is void.

**Right to Equality (Articles 14-18) :** Article 14 specifies the general right to freedom and Articles 15-18 elaborate on it. As per Article 14, the government will not deprive any person from legal protection. The same right is incorporated in UDHR. Article 14 adds that there will be no discrimination on the grounds of religion, race, caste, gender or place of birth. It is the responsibility of government to ensure that, negatively speaking, no one gets a privileged position before law and positively speaking, everyone will get the same protection of law.

**Article 15** specifies prevention of discrimination. There will be no discrimination on the grounds of religion, race, caste, gender or place of birth. No citizen can be prevented from going to any shop, hotel, well, lake or road. This article does not prohibit affirmative action for women, children and schedule caste and schedule tribe.

There exists equality of opportunity for everyone in respect of government employment. Here too, the Article does not prohibit reservations for backward castes and tribes. UDHR too mentions positive discrimination.

**Article 17** declares that untouchability is prohibited in the country.

**Right to Freedom (Article 19-22) :** Article 19 gives right to freedom which deals with 6 types of freedom. They are: freedom of speech, of expression, of peaceful association, of forming groups, of residence (the right to go to any place in India, to settle there and earn livelihood, to carry out trade/business there), and of expression.

The last mentioned right is very potent because information of violation of rights can be given only through new papers. Restrictions can be placed on the rights to freedom.

**Right Against Exploitation (Article 23-24) :** Article 21 specifies that a person can be deprived of life and personal liberty only according to a duly established lawful procedure. After emergency was declared in the country in 1976, courts have interpreted this article in a very broad sense.

**The Right to Live** in Article 21 is available not only to Indian citizens but to any person domiciled in India. The right to live includes the right to live with dignity. This was stated by the supreme court in a case in 1981. since then the scope of this article has become truly wide.



Different types of cases have been filed in courts under right to live. For ex.; right to go to foreign countries, right to privacy, right to legal aid, right to quick justice, right against imprisonment, against delayed capital punishment, against torture in police custody, against forcible displacement, against forced labour etc. have been mentioned under the umbrella of right to live. Courts have included all these rights under the right to live with dignity.

**The Right to Education** has now been included in the annexure of fundamental rights (as part III).

**Right to Freedom of Religion (Articles 25-28)** is included in fundamental rights. However, the statement of this right begins with restrictions. All have a right to follow their religion provided public order, peace and morality as well as other laws are not violated. Thus, the custom of offering girls as devdasis cannot remain out of bounds under the name of religion because not getting discriminated against on the basis of gender is a fundamental right of a person. Not followers of religion but local administration will decide the path of Ganpati emersion procession because it is responsible for maintaining law and order.

When the right to religious freedom interferes with fundamental rights for example, right to have more than one wife, the former should be opposed.

### **Right to Culture and Education (Articles 29-30)**

Right to seek redressal in courts through constitutional process when fundamental rights are violated (article 32).

**Rights Connected with Constitutional Processes (Articles 32-35)** Article 32 specifies that if any fundamental rights are suspended, people can go to the Supreme Court. Restrictions can be placed on right to freedom only under emergency.

### **Directive Principles of State Policy and Fundamental Duties**

**Article 36-51** deals with the directive principles and article 51 A mentions fundamental duties. That the citizens of the country give up discriminatory practices with respect to women is mentioned as a fundamental duty. The same point is covered in CEDAW.

### **Some Cases that Came up Before the Courts in Connection With Equality and Dignity of Women**

*(Dr. Jaya Sagade gave an account of these cases.)*

**Mutthamma Vs. Indian Foreign Service, 1979** : Mutthamma was working in IFS. When she did not get promotion, she filed a suit and cited her right not to be discriminated by the government on the basis of gender.



Service conditions of the IFS were like this

- No married woman shall ask for a right to work.
- Before marriage, she will have to take permission of IFS.
- She will resign if her domestic responsibilities conflict with her work related responsibilities.

The Supreme Court accepted Mutthama's argument and ruled that service conditions of IFS were unconstitutional.

**Case of Air India' Service Condition 1981 :** Air India used to appoint girls generally at the age of 19 years and their service conditions specified:

- Women employees will not marry in the first four years of service.
- If she marries after four years and becomes pregnant she will loose her job.
- Even if she does not become pregnant she will be retired at the age of 35 years.
- On the other hand they were no rules about marriage, child bearing of male employees and their age of retirement was 58 years.

The Supreme Court's verdict was that the first service condition was ok but the second one was unconstitutional.

**In case of Rape of Madhu Mardikar :** The court ruled that forced intercourse with a sex worker against her will is rape.

**Mira Mathur Vs. Life Insurance Corporation 1992 :** As per LIC's rules only women had to, during medical examination, answer some questions in the interview such as are you married, how many children do you have, how many abortions, date of last monthly period etc. the medical examination and the interview were part of entrance test before any one joined LIC as an employee. Mira Mathur joined employment at LIC and after a few months, she proceeded on maternity leave. LIC removed her from the job. It maintained that she deceived the corporation by giving false information and stating that she was not pregnant when in fact she was. Mira contested this stand. Her argument was that she herself did not know that she was pregnant because it cannot be known in the first month of pregnancy. The reason behind LIC's question was perfectly clear. It wanted to know whether the interviewee women were pregnant or not. If yes, they would not be chosen so as to avoid the burden of paying them maternity benefits. This amounts to a complete negation of benefits that society derives from child bearing. To ignore this larger social aspect and to look at it as a pure private matter is a root cause of this discrimination. The Supreme Court directed LIC to reinstate Mira Mathur in service and further stated that the questions asked by LIC amounted to violation of right to privacy. Finally the court also stated that if LIC wanted to know whether a woman employee was pregnant, it could carry out a pregnancy test.



**Bodhisatva Gautam Case 1996 :** A professor named Bodhisatva Gautam had sexual relation with a girl. Both had got married with God as their witness. When the girl became pregnant, the professor asked her to abort the foetus. The girl accepted it and abortion was carried out. After a few days she became pregnant again and this time refused to abort. She moved the court to demand maintenance for self and child. Boudhisatva gautam refused to acknowledge the marriage. However the court found him guilty of an illegal marriage, for abortion and for violating human rights of the girl. Because he refused to acknowledge the marriage, he court held him guilty of rape and directed him to pay maintenance allowance of Rs.1000 per month to the girl. This case illustrates the provision that not only the government but a person also can be held responsible for violation of human rights.

**Gautam Kundu Case 1993 :** Gautam kundu got married. After a few months his wife went back to her parental home to appear for her examination. When she came back after her examination, she found that she was pregnant. Kundu refused to accept the child as his and asked her to abort the foetus. The wife did not accept it and went to her parental home. After child birth, when her husband did not come to take her home, she moved the court for claiming maintenance for self and child. Kundu mentioned his doubts about paternity of the child in the court and demanded DNA test. The court overruled this demand and stated that there was a marriage which was consummated. It was sufficient ground to accept that the child was of the wedded couple. DNA test would amount to a violation of the child's right to live with dignity.

Any type of violation is not just a crime but is also a violation of human rights. There is an inherent connection between law and human rights because human rights are the foundation of law. Efforts should be made along these lines to approach laws and human rights from the perspective of women.





# National Human Rights Commission and State Human Rights Commission

Resource Person	Dr. Jaya Sagade / Bikramjeet Batra / Jayant Verma
Duration	90 Minutes
Methodology	Slideshow, Lecture

## Objectives

- ☐ To know the functions assigned to NHRC
  - ☐ To know the powers vested with the Commission relating to inquiries
  - ☐ To understand how the Commission inquires into complaints?
  - ☐ To know the steps taken by the Commission after inquiry
  - ☐ To view the kinds of issues on which complaints have been received
- 

## Background of the Formation of NHRC

In India, after declaring Emergency, the Supreme Court had given a verdict that anybody's any right; even the right to live can be suspended. It is called the "black verdict" of Indian judiciary. We can say that establishing National Human Rights Commission was one of the steps taken in order to reverse this verdict and to re-establish the honour of Supreme Court in the society.

Janata Party which came to power after Emergency and promised to establish National Human Rights Commission in it's election manifesto. Congress party too promised this in 1991. The mood was to improve India's image at international level by creating a human rights organization for the protection of human rights. Organizations like Red Cross, Amnesty International, Asia Watch were raising issues of death in police custody, torture of prisoners,



rapes during the times of emergency. Cases of atrocities on scheduled castes, scheduled tribes were also coming in fore front. Demands of probe in to human rights violations in Kashmir were being made.

Pressure of having a central law was being exerted from all sides. The Protection of Human Rights Act, 1993 (TPHRA) was passed on the above background. There were two objectives of this law: one was to establish National Human Rights Commission and another was to create machinery for the protection of human rights.

The National Human Rights Commission (NHRC) of India is an autonomous statutory body established on October 12, after the rights to be held.1993, under the provisions of The Protection of Human Rights Act, 1993 (TPHRA). The Commission is in conformity with the Paris Principles - a broad set of principles agreed upon by a number of nations for the promotion and protection of human rights, in Paris in October 1991.

### **Definition of Human Rights According to the Protection of Human Rights Act, 1993**

According to the Protection of Human Rights Act, 1993 "Human Rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed under the Constitution or embodied in the International Covenants and enforceable by courts in India. "International Covenants" means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United nations on the 16th December, 1966.

### **Functions Assigned to the Commission Under the Act**

*The Commission is mandated to perform all or any of the following functions, namely,*

- a) Inquire, on its own initiative or on a petition presented to it by a victim or any person on his behalf, into complaint of-
  - i) violation of human rights or abetment or
  - ii) negligence in the prevention of such violation by a public servant;
- b) Intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- c) Visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living condition of the inmates and make recommendations thereon;
- d) Review the safeguards by or under the Constitution or any law for the time



being in force for the protection of human rights and recommend measures for their effective implementation;

- e) Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- f) Study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- g) Undertake and promote research in the field of human rights;
- h) Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- i) Encourage the efforts of non - Governmental organizations and institutions working in the field of human rights;
- j) Such other functions as it may consider necessary for the promotion of human rights.

### **Powers Vested With the Commission Relating to Inquiries**

While inquiring into complaints under the Act, the Commission has all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular the following, namely;

- a) Summoning and enforcing the attendance of witnesses and examining them on oath;
- b) discovery and production of any document;
- c) receiving evidence on affidavits;
- d) requisitioning any public record or copy thereof from any court or office;
- e) issuing commissions for the examination of witnesses or documents;
- f) any other matter which may be prescribed.

### **The Investigation Team**

The Commission has its own investigating staff headed by a Director General of Police for investigation into complaints of human rights violations. Under the Act, it is open to the Commission to utilize the services of any officer or investigation agency of the Central Government or any State Government. The Commission has associated, in a number of cases, non - Governmental organizations in the investigation work.



## **How Does the Commission Inquire into Complaints?**

The Commission while inquiring into complaints of violations of human rights may call for information or report from the Central Government or any State Government or any other authority or organization subordinate thereto within such time as may be specified by it; provided that if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own; on the other hand, if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly.

## **Steps Taken by the Commission After Inquiry**

*The Commission may take any of the following steps upon the completion of an inquiry,*

- 1 Where the inquiry discloses the commission of violation of human right or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;
- 2 Approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;
- 3 Recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary.

## **Procedure Prescribed Under the Act With Respect to Armed Forces**

The Commission may on its own motion or on the basis of petitions made to it on allegations of human rights violations by armed forces, seek a report from the Central Government. On receipt of the report, it may either not proceed with the complaint or, as the case may be, make its recommendations to the Government. According to the Act, the Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow. It is further stipulated that the Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations. A copy of the report so published will also be given to the petitioner.

## **How to Register a Complaint With NHRC**

- *Complaints may be in Hindi, English or in any language included in the Eighth Schedule of the Constitution.*



- *The complaints are expected to be self-contained.*
- *No fee is charged on complaints.*
- *The Commission may ask for further information and affidavits to be filed in support of allegations whenever considered necessary.*
- *The Commission may in its discretion, accept telegraphic complaints and complaints conveyed through FAX or by e-mail at email id : covdnhrc@hub.nic.in (General) / jrlaw@hub.nic.in (For complaints)*

*Complaints can also be made on the mobile telephone number of the Commission. (9810298900)*

### **What Kind of Complaints are Not Entertained by NHRC**

*Ordinarily, complaints of the following nature are not entertained by the Commission,*

- a) *In regard to events which happened more than one year before the making of the complaints;*
- b) *With regard to matters which are sub-judice;*
- c) *Which are vague, anonymous or pseudonymous;*
- d) *Which are of frivolous nature;*
- e) *Which pertain to service matters.*

### **What is the Responsibility of the Authority / State / Central Governments to Which Reports / Recommendations Have Been Send by the Commission?**

The authority/State Government/Central Government has to indicate its comments / action taken on the report / recommendations of the Commission within a period of one month in respect of general complaints and within three months in respect of complaints relating to armed forces.

### **The Kinds of Issues on Which Complaints Have Been Received**

Since its inception, the Commission has handled a variety of types of complaints. In the latest period, the major types of complaints have been:

- **In Respect of Police Administration**
- **Failure in Taking Action**



- Unlawful Detention
- False Implication
- Custodial Violence
- Illegal Arrest
- Other Police Excesses
- Custodial Deaths
- Encounter Deaths
- Harassment of Prisoners; Jail Conditions
- Atrocities on Scs and Sts
- Bonded Labour, Child Labour
- Child Marriage
- Communal Violence
- Dowry Death or Its Attempt; Dowry Demand
- Abduction, Rape and Murder
- Sexual Harassment and Indignity to Women, Exploitation of Women
- Numerous Other Complaints Which Cannot be Categorized, Have also Been Taken Up .

### **What has been Focus of the Commission's Working?**

Inquiring into complaints is one of the major activities of the Commission. In several instances individual complaints have led the Commission to the generic issues involved in violation of rights, and enabled it to move the concerned authorities for systemic improvements.

However, the Commission also actively seeks out issues in human rights which are of significance, either suo motu, or when brought to its notice by the civil society, the media, concerned citizens, or expert advisers. Its focus is to strengthen the extension of human rights to all sections of society, in particular, the vulnerable groups.

The Commission's purview covers the entire range of civil and political, as well as economic, social and cultural rights. Areas facing terrorism and insurgency, custodial death, rape and torture, reform of the police, prisons, and other institutions such as juvenile homes, mental hospitals and shelters for women have been given special attention. The Commission has urged the provision of primary health facilities to ensure maternal and child welfare essential



to a life with dignity, basic needs such as potable drinking water, food and nutrition, and highlighted fundamental questions of equity and justice to the less privileged, namely the Scheduled Castes and Scheduled Tribes and the prevention of atrocities perpetrated against them. Rights of the disabled, access to public services, displacement of populations and especially of tribals by mega projects, food scarcity and allegation of death by starvation, rights of the child, rights of women subjected to violence, sexual harassment and discrimination, and rights of minorities, have been the focus of the Commission's action on numerous occasions.

## **NHRC'S Major Initiatives**

- Civil Liberties
- Review of statutes, including Terrorist & Disruptive Activities Act, and (draft) Prevention of Terrorism Bill, 2000
- Protection of human rights in areas of insurgency and terrorism
- Guidelines to check misuse of the power of arrest by the police
- Setting up of Human Rights Cells in the State/City Police Headquarters
- Steps to check custodial deaths, rape and torture
- Accession to the Convention against Torture, Additional Protocols to the Geneva Conventions.
- Discussion on adoption of a Refugee Law for the country
- Systemic reforms of police, prisons and other centers of detention
- Visit to Jails, mental hospitals and similar other institutions
- Review of laws, implementation of treaties, and the international instruments on human rights
- Economic, Social & Cultural Rights
- Elimination of bonded labour and child labour Issues concerning Right to Food
- Prevention of maternal Anaemia and congenital mental disabilities In the child
- Human Rights of persons affected by HIV/AIDS
- Public Health as a human rights issue
- Rights of the vulnerable groups



- Rights of women and children, minorities, scheduled castes and scheduled tribes
- People displaced by mega projects
- People affected by major disasters such as the super-cyclone in Orissa and the earthquake in Gujarat.
- Monitoring the functioning of the Mental hospitals at Ranchi, Agra and Gwalior, and the Agra Protection Home, under a Supreme Court remit
- Action Research on Trafficking
- Promotion and protection of the rights of the disabled.
- Rights of de-notified and nomadic tribe
- Welfare of the destitute widows of Vrindavan
- Elimination of manual scavenging
- Promotion of human rights literacy and awareness in the educational system and more widely in society
- Human rights training for the armed forces and police, public authorities, civil society, and students
- Research through well-known academic institutions and NGOs on various issues relating to human rights
- Publication of Annual Report, monthly Newsletter, Annual Journal, and research studies
- Consultation with NGOs and experts/specialists on Human Rights Issues

### **State Human Rights Commissions**

State Human Rights Commissions have been established in 16 states which are : Assam, Chhattisgarh, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Tamilnadu, Uttar Pradesh, West Bengal, Andhra Pradesh and Karnataka. According to the resource person, these have not worked effectively.

### **Some Examples of Cases Dealt With by NHRC**

*More than 3 lakh cases have been filed before National Human Rights Commission so far. The resource person gave information in short about some of these cases.*



**Case of Sexual Harassment and Exploitation of a Girl from Bihar :**

PUCL, Bihar filed this case. The Mumbai-based sister and brother in-law of a senior police officer from Bihar were exploiting a minor Adivasi girl named Baby. The girl was from tribal parts of Bihar. She was the one of the hundreds of girls who are brought to cities and town for domestic work. She had to bear with atrocities like beatings, getting burnt by cigarette butts, starvation, being tied so that she is not able to go out etc. The police superintendent sent by the commission carried out investigations in this case, checked their validity and filed case against the accused for harassment and rape. The girl got a compensation for Rs. 10,000 on the recommendation of the commission.

**Case No. 685/20/97-98 - Sexual Harassment of a Woman, Rajasthan :**

An anonymous petition was filed with the Commission, stating that some people had forcibly kept a 24 years old girl in Jaipur under detention. She had a small child whom they had taken away from her. Those people were sexually abusing her and they wanted her to take up commercial sex work. The commission decided to take cognizance of this anonymous application. In reply to the Commission's notice Police Superintendent of Jaipur (Rural) stated that after investigation his team had learnt that two persons about whom the complaint had been filed were respectable persons and there was no possibility of their being a party to such a case. The reply added that the team could not ascertain the where about of this woman. Not satisfied with this reply the commission sent its own investigation team. This team with the help of local police released the girl. As per the report of the investigation team, the girl was found in a state of illness, malnutrition and total neglect in the house of one Manoharlal Sharma. Her medical investigation revealed that she was pregnant. Six persons including a police constable were held responsible for her condition and a suit was filed against them as per the relevant provisions of Indian Penal Code. The Commission recommended to the Government of Rajasthan that, having regard to her condition, she should be given suitable employment. The case of rape of a girl by a Minister in Assam was also narrated before the participants.

(Source : Dr. Jaya Sagade))

Wherever possible, we should take help of laws in the country and international covenants in our work. The National Human Rights Commission should certainly be approached but what is far more important is the cultivation of social climate for respecting human rights.









## Impact of New Economic Policies on the Rights of People

**Resource Person** Prof. Vinay R.R.

**Duration** 90 Minutes

**Methodology** Film, Lecture

### Objectives

- ☐ To see distinguishing feature of concepts of globalization, privatization and liberalization
- ☐ To understand the effect of these policies on society
- ☐ To understand why they should be opposed

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### What is Happening Due to Globalization?

Means of livelihood are being taken away from working class people. Whether it is the issue of Special Economic Zones (SEZs) or big dams or jungles, the crux of the matter is right over resources. By resources we mean all those things whose value can be determined.

What is the price of water? We can specify the price of a bottle of water. what will be the price of a river? How do we account for human resources? Any theory in economics which does not account for human-power is useless for a country like ours which has a large population. It is not right to approach all subjects from one given perspective. This is happening with respect to globalization which is being approached only from the perspective of economic development.

### What is Globalization?

- The meaning is that the whole world is one; all its citizens belong to one family. It includes not just people but also trees and all living beings. However, there is no equality in this human-made world. Countries are divided into



developed and underdeveloped countries on the basis their resource base and there exists plenty of inequality between these two camps. For making this distinction, Gross Domestic Product (GDP) is used as yardstick. Don't we take natural resources into consideration while making the distinction? Whatever is saleable is considered as production. Those who have more to sell are developed; those who have nothing are underdeveloped and those who have less to offer are developing. This terminology has been coined by those who have plenty to offer for sale.

- Technological know-how is also a resource because it can be sold. If goods made from industrial projects are not sold then those projects are useless. In the past traders had to reach agreement with different countries individually for selling their ware. Later on, they must have reasoned that it would be far more convenient to have access to them en block. Trade would then become easier.
- Take example of Bastar district. It has many *Chiraunji trees*. Salt is a scarce commodity here. Traders in Baster used to give 1 Kilo of salt to the tribals in return of 1 Kilo of chiraunji. .Exchange is okay but not this kind of exploitation.
- Allied forces came together after World War II and they established General Agreement on Trade and Tariffs (GATT). Only developed countries were a party to it initially. Then developing countries were also admitted, thinking that trade volumes would grow by trading with them.
- Another topic has become connected with globalization: intellectual property rights. It means that those who have developed technology should get royalty so that they go ahead and develop some more technology. According to Trade Related Intellectual Property if any country grants a patent or right to earn royalty to any one in the country, all other countries will honour it.
- Does India lack intellectual property? Our tradition lacks the very idea of right over intellectual property. Now as per Indian law, products can be patented but not production process. Neem has been used as a pesticide for thousand of years in the Indian subcontinent. However, no Indian has taken a patent of it. America did that. It was cancelled after protests by Indian scientists. More than 2700 such patents have been registered.
- Today seeds developed by bio-technology are being patented. Application for patent on Basmati rice which we are using for many years is pending. The genetic make-up of a tribe in Africa is such that because of a particular gene, its members are immune to brain fever. A scientist has patented that gene also.
- Goods can travel from any place to other places without any restriction but migration of labour is restricted. International agreements do not take place as per democratic process. Agreements which are signed by people's representative have tenures which far exceed the terms for which those representatives have been elected.



- In the course of globalization, we discuss the issue of gains to different companies but not to people.
- The biggest trade takes place in case of arms and armaments. 52% of USA's GDP accrues from sale of arms. Has any one attacked USA? All wars and internal strife take place in under-developed countries. Wars took place between India and Pakistan, Iran and Iraq and in Vietnam. After World War II, no developed country has fought with another developed country. However, they all have weapons. Weapons are their resources. The more wars take place in underdeveloped countries, the greater will be sale of weapons which will give a boost to the development of developed countries.
- Globalization offers benefits as well as costs. Those who cannot raise their voice have to bear its costs. On one hand, work is getting outsourced to other countries and on the other, polluting industries too are outsourced. All those industries on the working of which western countries have imposed stringent restrictions are outsourced to undeveloped countries. However, if the orient gets polluted, Occident has to be affected.

## **Privatization**

- The basic premise of those who advocate privatization is this: if all work is carried out by government, it will be of poor quality, if competition is introduced, work quality will improve. Previously, the government invested capital because India had few capitalists. Those who were there did not want to invest their money in infrastructural facilities like roads, water, electricity etc. where rate of profit was low.
- Now capitalists want to invest their money (in such ventures) and they (obviously) want to earn profit on this investment. So they want all sectors opened for private investment. The World Bank also opines that service sector be opened to all. Those who have money can invest it in services.

## **Participants' Questions**

*Question :* People's right to knowledge and education used to be denied on the basis of caste. Has not globalization contributed in lessening the evil of casteism?

*Answer :* Some castes which did not have the right to obtain knowledge are now getting it. However, a new type of casteism, that of exclusion on the basis of money, is emerging now. Process patents are fine for 15 years, not more and product patents should not be there at all.

## **Additions**

*Source :* This information is taken from a session conducted by Dr. Anant Phadke during a training programme organized by MASUM and Beyond The Circle on Economic, Social and Cultural Rights in July 2006 in Pune.



## **Impact of Liberalization, Privatization and Globalization on the Majority of the Society**

- Worsening conditions of work, especially in export processing zones
- Occupational environment - hazardous industries shifted to third world
- By the turn of the century, unemployment rates in most industrial countries were higher than they had been at any time since the Great Depression of the 1930s; rise in the phenomenon of part time jobs
- The per capita income in 100 countries - lower than it was 30 years back. In Africa, the average household consumes 20 per cent less today than it did 25 years ago
- 1 billion people saw their real incomes fall between 1980 and 1993
- Feminisation of poverty - Female-headed households show a much higher incidence of poverty, 70% of the 1.3 billion poor are women
- In 1960, ratio of income of the wealthiest 20% to that of the poorest 20% was 30 to 1
- By 1995, that ratio stood at 82 to 1
- Impact on farmers - Tariffs slashed and import quotas expanded, hopeless bankruptcy due to indebtedness.
- In India during 1998 to 2005, 9000 farmers committed suicide (official figures)
- Per capita annual food grain consumption in India
- 178 Kg in 1991;154 kg in 2004
- Percentage decline in Infant Mortality Rate in India
  - During 1981-91 - 27.3 per cent
  - During 1991-99 - 10 per cent
- Decline in the Under Five Mortality in India
  - During the eighties, decline of 35.7
  - During the nineties, decline of 15.1
- In India Proportion of people not availing any type of medical care due to financial reasons
- 1986-87 to 1995-96: from 10 to 21 per cent in urban areas, and from 15 to 24 per cent in rural areas



■ No let up in war, social conflicts

Three hours of world-wide military spending is equal to the WHO's annual budget

Three weeks of world arms spending could provide primary health care, including water and sanitation, for all individuals in poor countries









## Fundamentalism

Resource Person	Anwar Rajan
Duration	90 Minutes
Methodology	Lecture Method

### Objectives

- ☐ To develop an understanding about religious and other kinds of fundamentalisms



Most ideologies have one of the following basis:

- Scriptures** : Believing that scriptures are distilled wisdom and whatever they mention is the ultimate truth.
- Ideologues** : Considering the views and opinions of a certain person as sacrosanct.
- Reason and Intelligence** : Using one’s own intellect for factual and logical evaluation.

### What is Fundamentalism?

Fundamentalism is usually scripture-based ideology. Fundamentalists believe that only their scripture is correct and is complete in itself. Whatever the scripture says has always been correct and will always remain so. They believe that their scripture has a solution to every problem, be it corruption, rising prices or any other.

What it implies is that other ideologies are incomplete or incorrect or sometimes even against humanity. Fundamentalism looks ‘upon’ others from two perspectives. One, that they have strayed from the right path and need to be brought back; or two that they are dangerous and need to be eliminated. It seems necessary to eliminate other ideologies and even their adherents. This belief does not preclude violence.



Fundamentalism is not based on religion alone, it can be based on other ideologies too. Atheists may also be as intolerant of others as fundamentalists. However, it is not necessary that every person who believes in some religion or ideology is a fundamentalist.

Fundamentalists organise themselves to propagate their views. Rules are imposed on the members in the name of sustaining the organization. Religious fundamentalists are particularly rigid about controlling women's lives.

## **What is Religious Fundamentalism?**

These fundamentalists believe that their scripture is not man-made but is given to them by God himself. Hindus believe that the Vedas are 'apaurusheya' or not created by man. Muslims believe that the deep thinking revealed in Koran could not have come from Prophet Mohammad, who was illiterate. Therefore, it has to be a message from God.

## **Fundamentalism and Women**

Religious fundamentalism imposes all types of restrictions on women. Is this the outcome of religious tenets or social structure? After patriarchy had been established, religion was used to strengthen it and to put the gloss of divine sanction on it. These views continued to get assimilated into religion.

Religious thinking in human society is about 5000 years old. Hindu religion, the oldest religion in the world according to Hindus, was created about 4 to 5 thousand years ago. Jainism and Buddhism came around 2500 years ago. Judaism dates back 3500 years and Christianity 2000 years. Islam has a history of 1400 years (although Muslims believe that it has been present since pre-historic times). It is also believed by them that Adam was the first prophet. This entire period of 5000 years has been an era of patriarchy. So all these religions reflect the patriarchal social structure. At one time, religious fundamentalism might have been local, but with increased mobility and communication, it has now become a global phenomenon.

Fundamentalists look down upon the local culture and languages of other nations. For example, Hindus consider Sanskrit language to be pure, while the language used by other is considered to be impure. Only a few had the right to learn Sanskrit. They were the ones who had access to knowledge of the scriptures, as well as control over others. When Koran was translated to Urdu, many people thought it was sacrilegious to do so, since Koran was originally written in Arabic, considered to be "pure" according to some. Fundamentalists deny local cultures. Muslims are not allowed to partake 'prasad' (small sweetmeats offered as divine gift among Hindus) as that would be tantamount to accepting idol worship. The word 'pakhandi' which means one who opposes the views expressed in the Vedas, is commonly used as an abusive word.



## **Countering Fundamentalism**

Fundamentalism has been opposed in each period of history. Bhakti tradition rose to counter Hindu fundamentalism. This is a revolutionary ideology which has spread far and wide. Saint Dyaneshwar and Tukaram translated religious scriptures to Marathi, the local language of Maharashtra. Both were punished for this transgression. Fundamentalists say that they believe in Dnyan Marg (the path of knowledge). They say that all the knowledge related to worshipping, that of holy rituals is with them alone. This path of knowledge emphasizes the importance of some medium for realizing God. Bhakti Marg (path of devotion) believes in love and emphasizes that every being can directly communicate with the Almighty.

Sufism arose to oppose fundamentalism in Islam. It is similar to Bhakti Marg. Instead of following rituals like offering 'Namaz' five times in a day, it stresses the importance of building a relationship of love with Allah. Bulleshah, a sufi, was prohibited from singing quawallis (devotional songs) but he rebelled the imposition. Not only did he continue singing, he also learnt to dance from nautch girls. Protestants rebelled against the orthodoxy in Christianity. They declined to accept Papal power. However, now fundamentalism has been associated with Protestants too, because they follow the doctrines of the Bible with rigidity and denounce the authority of Pope.

## **Revolutionaries and Fundamentalism**

Every religion has different sects such as Shia and Sunni in Islam, Digambar and Swetambar in Jainism, Hinayaan–Mahayaan in Buddhism, Catholic – Protestant in Christianity and so on. Not only do fundamentalists deny other religions, they also deny other sects within their own religion.

Jainism originated in protest of animal slaughter. In ancient India, animals used to be sacrificed for yajnas (making offerings to Fire to please the Gods). These animals belonged to shepherds and were taken away by force. Shepherds found that their livelihood was threatened by these sacrifices and they therefore started protesting. Ramayana mentions that sages used to approach King Dashrath for protecting sites of yajnas from demons. These demons were none other than the original settlers of the land who did not want their animals to be sacrificed and thus showed resistance. Both Jainism and Buddhism grew out of these wide spread protests. However, fundamentalism has crept into both these religions today. It is seen that sects which oppose fundamentalism in the beginning may themselves develop fundamentalist tendencies later. New rebel groups originate to counter these.

Fundamentalism can end. It is important to see how fundamentalism from one land spreads to another. For example when restrictions were imposed on women in Iran under the regime of Ayatollah Khomeini, even in India, Muslim women were restrained from visiting cinema halls. In Jalgoan, a youth group called Chhatra Yuva Sangharsh Vahini opposed these restrictions and some women went to cinema halls to watch a movie. Leaders of all communities use various oppressive measures of social control such as social boycott (beeda-bandi, hookah-bandi) etc. to impose their ideology.



Some rebel sects may have been progressive in their views but none of them has taken up the issue of women's equality. They have raised their voice against racial discrimination but they haven't done much to promote women's issues.

## **Fundamentalism and Science**

When scientific advancement led to new discoveries, fundamentalists opposed these. When Galileo and Copernicus discovered that the Earth is spherical, and is not the center of the Universe, their discovery was treated as sacrilege and they were incarcerated by Christian theocrats. When humans landed on the moon in 1969, Muslims refused to accept it. People opposed Darwin's doctrine of evolution too, because Jews, Christians and Muslims, all believe that the world began with Adam and Eve. Muslims hold the view that there was only evil and chaos in society till the Prophet appeared. However this same society had granted him the right to marry a widow and the right to work to his wife Khadija; so it can be said that it wasn't completely evil. In fact no society is ever completely evil or completely good; it is always a combination of the two.

Religion has a context in the era and the place where it originates. Fundamentalists stick to the same old beliefs, which may not hold any relevance today. The Prophet viewed solar eclipse as Allah's fury and advised his followers to offer namaz to seek His mercy. Today we understand why the eclipse takes place and yet people hold on to the Koranic explanation of it. Fundamentalists continue to stick to their scriptures in the face of contrary evidence.

Some fundamentalists hold an entirely opposing view. They believe that there are no new scientific discoveries at all; every new discovery can already be found in their religious scriptures. Thus Hindus believe that airplanes are not a new concept. Their scripture talked about an airplane many centuries before modern airplanes came into being.

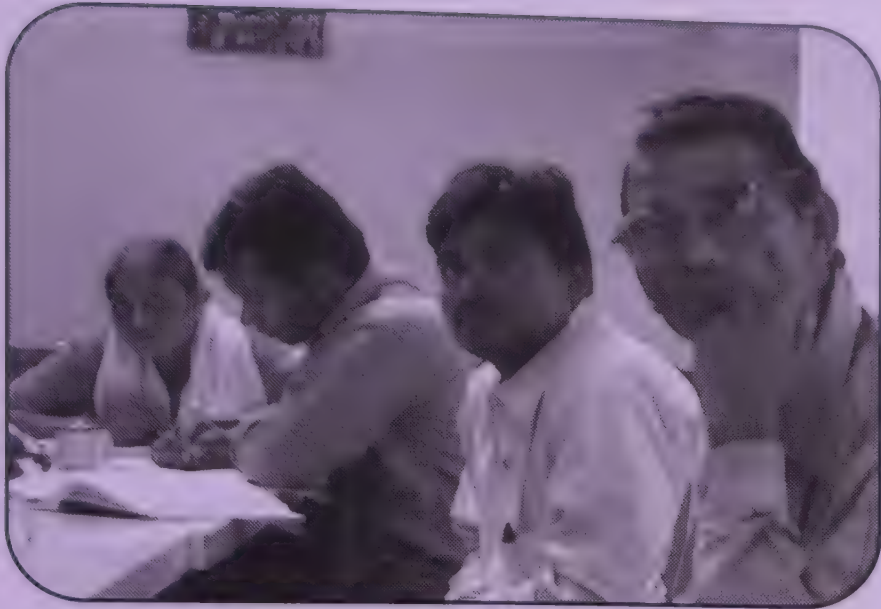
Fundamentalists advise us that before taking any action, we should think of its consequences in the after-life. Current problems are not important; virtuous acts today would yield fruit after death. They instill fear in order to control people, asking them to offer Namaz five times a day or to practice 'Sanatan Dharma' (sanctity of religion) etc.

Hindu scholars assert that fundamentalism is not possible in Hinduism as the religion does not subscribe to one single scripture. Manusmriti and Bhagwad Geeta are considered to be the main religious scriptures of Hindus. Mahabharata and Ramayana are not religious texts but their stories have had a deep influence on the Hindu psyche. A hierarchical system based on Varna can be seen in Manusmriti and Gita. The various texts support each other and construct a collective ideology.

The latest version of Hinduism can be found in politician Veer Savarkar's narration. He gave a definition of Hindutva (the essence of Hinduism) and Hindu nation. He also stated that the weakness of Hinduism lies in its positive features of tolerance and respect for women etc. If these are abandoned, Hindu society can also become powerful.



## *Some Glimpses*









# New Economic Policy and the Right to Natural Resources

**Resource Person** Dr. Ramesh Awasthi

**Duration** 90 Minutes

**Methodology** Lecture Method

## Objectives

- ☐ To develop an understanding of the new economic policy.
- ☐ To understand the impact of new economic policy on right to natural resources.

The objective of this session is not to discuss pros and cons of the new economic policy (NEP) but to understand what it means.

The economy has today become so complex that it has become difficult to comprehend it. There have been dramatic changes in the national as well as global economy in the last 20-25 years.

## Exploitation of Resources Under the Current Economic System

In ancient times whenever a kingdom was ruled by a wicked king or was conquered by another, people from poor homes would kill their beautiful daughters to save them from the king's lust. A woman's beauty would become her enemy.

In a patriarchal society, a women's bodily beauty was considered her wealth and so it was vulnerable to attacks. We can extend this analogy and then we see that natural resources of poor countries which are their wealth have similarly become their enemy. Tribals stay in areas which are rich in natural resources and they are being ousted from their habitat for its resources.



## **Concepts Related to NEP**

Liberalization, Globalization, Privatization, Structural Adjustment Programme (SAP), World Trade Organization (WTO), Neo - Colonialism are some concepts related to NEP.

The terms are used interchangeably and activists often generalize and blame all of these for problems encountered in their field. However, each term has a specific meaning which must be understood so that we know exactly what we are against.

## **Liberalization**

### ***Liberalization is an Extensive Concept***

- One of its components involves giving exemptions and incentives for import-export and investments as well as giving permission to foreign companies to set up shop in our country.
- The other part involves reducing government control by bringing down license/permit raj because it is believed that government regulation in all areas is unnecessary.

Before the advent of liberalization, almost all economic activities were under government control. When Khadi and Village Industries Commission (KVIC) was established, its Chairman Shri J. B. Kripalani was of the opinion that excess of License Raj would mar the Khadi movement as government restrictions would kill its spirit of autonomy.

However, there were other factors which justified government controls. Most of the developing economies in their primary stage depend on agriculture and natural resources. All the rest of the needs are fulfilled by imports. For example, when there was a famine in India in 1964, food grains had to be imported from the USA. Even technology used to be imported from abroad. These required the scarce foreign exchange that the country could ill-afford. Efforts were made to ensure that only so much was imported as could be paid for. This had to be regulated through licenses.

Limits used to be imposed on production by big industries to ensure that the business of small units would not get affected. Government control could thus prevent monopoly.

All these measures were put in place due to paucity of foreign exchange. This had a negative impact too - India could not import new technology, minerals had to be sold because of shortage of food grains etc. Because of this, India remained under the thumb of Russia as it was willing to carry out exchange in rupees. Russia extensively exploited India during this period as it bought and sold goods at arbitrary rates.



To avoid bankruptcy, a limit was placed on imports until the country reached a sufficient level of domestic production. Companies were given import quotas proportionate to their exports. This kind of control led to rampant corruption.

After liberalization government control has reduced, because of which it has become easier to operate. Liberalization of foreign trade has become possible because of availability of foreign exchange. When Mr. Chandra Shekhar was Prime Minister, India had only \$100 crore worth of foreign exchange because of which no one was willing to trade with India. Today our foreign exchange reserves amount to \$27000 crore.

*Even today we import more than we export. But India earns foreign exchange through other sources as well, such as*

- Export of goods and services.
- Remittances by Non Resident Indians.
- Direct investment by foreign companies. Production is cheap in India – land and labour are cheaply available and expense involved in transporting products to neighboring countries is also less. So more businesses are being set up on Indian soil.
- Many companies run BPOs (any part of the business activity that can be carried out outside the country, is sourced out) and Call Centres from India, which has become possible because of the spread of Internet. This reduces costs, but it has also resulted in loss of employment in home countries. Competition has become so fierce that companies are making all possible efforts to cut costs.
- Earlier, only Indians could buy shares of Indian companies. Now the share market has been opened to foreigners as well.

## **Privatization**

Many of the government's responsibilities are now being transferred to the private sector e.g. generation and distribution of electricity, construction of roads, production of steel etc. The foundation of industrialization rests on certain core industries such as steel, minerals, petroleum and oil etc. It is essential to retain government control over these so that they do not pass into private hands. At the time of independence socialist policies ensured that these core industries remained under government control. Moreover, no industrialist had enough capital to invest in these industries. Government kept the core industries under its control so that it would remain free from the pressure of capitalists.

Back in those days, the government was not being able to carry out some of its work efficiently. Some public sector companies were going in the red because their employees were not



working responsibly. So a question began to be raised - is it necessary for the government to own and control every activity? Public sector was opened to the private companies. Private companies wanted to run these as businesses for making profit. Prices of government services were raised to match their rate with those of private companies. This was to create a level playing field.

With the intent of improving services, some work began to be given to private parties on contract basis. Initially, these contracts were given only to Indians but later, even foreigners could bid for them. This was the beginning of wide spread globalization.

## **Globalization**

Along with indigenous goods, foreign goods also flooded the markets. This put pressure on indigenous businesses to produce at low prices. The need for an independent department to control the open market was felt and this led to the setting up of regulating mechanism like the Telecom Regulation Authority of India (TRAI).

Regulation at national level was not sufficient; an organization by the name of World Trade Organization (WTO) was established for regulation at international level. The WTO makes rules for trade among different countries in the world. Earlier, trade agreements used to be bilateral. Now, under the aegis of WTO, international agreements are drafted which are applicable to all member countries. Each member country has an equal vote for making decisions in WTO. Small countries have an equal say in matters relating to trade. For example, in the Doha round of WTO talks, under-developed countries put pressure on America for reducing subsidies given to American farmers.

World Bank is another global institution which has plenty of clout at international level. The Bank was established for funding reconstruction and development efforts after the Second World War. It makes money available from rich countries to poor ones in the form leveraged loans. The control of countries in the decision making processes is proportionate to the monetary contributions/ investment made by them. The World Bank's aim is to bolster the interest of capitalist countries and it favours free markets.

Structural Adjustment Programme (SAP) is the name given to the process through which policies are being changed for facilitating liberalization, privatization and globalization. The World Bank has been instrumental in pushing through SAP/NEP.

## **How Have Conditions Changed?**

- Products and production processes are today being patented. This has led to high price rise. This is of grave concern with respect to essential goods and life-saving drugs. The danger of monopolization has also increased.



- In their greed to earn profits companies are indiscriminately exploiting natural resources. Countries are being robbed of natural resources.

This process was seen in the days of imperialism also, when a handful of countries had colonized other countries and used to exploit their resources for self-gain. Big businesses and industries have now replaced those imperialist countries. (However today it is not as easy as it once was to plunder away all resources.)

Like China, India is also seen as one of the emerging economies of the world. India has sizeable reserves of foreign exchange and the price of Indian Rupee is going up.

The structure of global businesses is rapidly changing. Companies are running their operations from multiple locations today. These Multi National Companies (MNCs) belong to no single country. They think of their own interest, not of the country's. They increase investment in countries where they are likely to make more gain.

If a company's products are seen as expensive in foreign markets, they will not attract any buyers. To ensure that the prices remain competitive, businesses reduce their workforce. This shows us the amount of pressure each employee is facing, while there is no up-gradation of facilities that are provided to him/her.

## **New Economic Policy and Natural Resources**

Today, India has such huge reserves of foreign exchange and a few Indian capitalists have become so wealthy that they are buying dollars and also foreign companies. A new wave of imperialism is being seen, which seems to be flowing in the reverse direction. China and India lead the list of countries which are buying the largest number of oil wells in Africa.

When and how natural resources are to be utilized are important decisions and they should be taken keeping in mind the best interest of the nation and its citizens. However today these concerns have been pushed aside and the Government itself has become an agent selling its country's wealth of natural resources.

Why are the states rich in natural resources poor? Why do the most horrendous incidents of exploitation come from areas which are rich in terms of natural resources? Why are some of the original inhabitants being displaced from these places? United Nations recognizes the rights of local communities. What is worrying is that instead of preventing this violation of human rights, the government has become an equal partner in the process.

If we wish to change this situation, we will have to begin by showing more respect for our resources. Along with this, those people will also have to be made participants in development programmes whose lives and livelihoods have depended on these resources for generations together.









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## History of Struggles for Rights Over Natural Resources

Resource Person	Sharad Kulkarni
Duration	90 Minutes
Methodology	Lecture

### Objectives

- ☐ To understand the struggles for land, water, forest from a historical perspective
- ☐ To analyze the strategies of these struggles

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Before we go into history of struggle for establishing right over natural resources such as water, land, air and forests, we have to remember that these resources existed before humankind. Struggles for these resources have existed from the beginning. However, the usage of these resources was different. With changing patterns of the usage of these resources, the nature of the struggle also changed.

### Struggle for Land Rights

- Use of land for farming is 10,000-12,000 years old. Prior to it, survival depended on food collected from forests or hunting of wild animals. Therefore land was not such an important resource then. There was plenty of land, people were few and use of land was little.
- Six thousand years ago; people started settling down at one place and became owners of the occupied land. Forests were cleared; people started leveling as much of land as they could and started farming it. When soil fertility declined due to its continuous use, they sometimes left it fallow for a few years and farmed some other land. Before British traders came to India, relationship between landlords and farm labourers was of a different nature.
- The British started surveying land. They prepared land maps and records to



establish ownership rights. After this, the nature of ownership started changing. India had village oriented system and rules of money-lending were framed in such a manner that amount of interest never exceeded the principal. British removed these restrictions. According to the changed rules, the amount of interest became internal matter between the borrower and the lender. British rule was first established in Bengal, Bihar and Orisa. Interest rates went up in these places. When accumulated interest exceeded the principal, money lenders started seizing land that belonged to the borrowers.

- The first struggle in India was launched by tribals and it was against such seizure of land by moneylenders. Agitations in Bihar since 1828, protest by Birsa Munda in 1855, struggles by tribals in Maharashtra in 1874 – are some more examples of these.
- Railway transport started growing since 1853. Commercial farming of cotton began in 1860 and pattern of land use changed once again.
- During this period, people burnt down debt records of money lenders in some places. The main reason behind this development was that tax on land was the biggest source (90%) of government revenue. Persons who were given the job of recovering this tax, in less than a years span, became Zamindars (land lords) and farmers became agricultural labourers. The biggest agitation over the issue of Zamindari since 1900 took place in Bihar.
- After Independence, Zamindari Abolition act was passed in the country. In Maharashtra, landlords did not cultivate the land themselves. It was cultivated by the share croppers. Tenancy laws stopped this practice and fulfilled the demand 'land to the tiller'.
- Land prices started rising after Independence. During 1950-60, prices of food grains started increasing. Even after Independence, tribals did not possess any documentary proof of their land ownership. They continued cultivating land and non-tribals around them bought and registered these lands in their own names. Some agitations were carried out against this injustice.
- Land ownership is of 3 types : Private Ownership, Community Ownership and Government Ownership. The British nullified community ownership. Government of independent India, too, did not re-establish community ownership. Some agitations were carried out over this issue as well.
- An agitation started from a village called Naxalbari in Bengal. It is hence known as Naxalite movement. This movement believes in the use of counter violence. It spread in tribal dominated regions and it is still going on. The reason why it spread in tribal belts is that tribals are subject to the greatest injustice and they are unable to fight long drawn out legal battles.
- After 1950, government of India started acquiring land for public purposes such as making of railway tracks, dams, factories, defense establishments



etc. The government believes that ownership of all the land in the country rests with it. Many agitations were carried out against government acquisition of land.

- Today, government is acquiring land for other people for example, for mining coal and bauxite in Orisa, Bihar and Jharkhand, tribal land was acquired. This too led to protests and struggles. Struggles were carried out in public sphere as well as in the courts. Even today the government is continuing to acquire peoples' land in the name of Special Economic Zones which is leading to severe agitations in places such as Nandigram in West Bengal, Raigad in Maharashtra etc.

## **History of Struggle for Gaining Forest Rights**

- Before British era, wood was used primarily as fuel wood or for domestic use. After the British arrived, wood became a marketable commodity. Timber started getting used more for making ships, rail tracks, furniture etc. and this led to large scale felling of trees. Greater quarrels began over forests.
- People used forests mainly for subsistence viz. fuel-wood and construction of houses etc. Most of the jungles were being cut down for commercial purpose. Along with banning commercial felling, the government also banned use of forests for livelihood purposes. However, in reality the commercial use continued either by getting a license or simply by offering bribe. Thus restrictions were effectively applied to only subsistence needs of people. So some agitations began to protest against this injustice.
- In 1970, government formulated a policy which specified that forests are for environmental purpose, not for timber. So practices of ousting tribals from jungles, burning down their farms etc. began in the name of saving forests from degradation. Some struggles emerged on this issue.
- Chipko Movement in Uttaranchal was led by local women who were protesting against tree felling by the contractors. Contractors were trying to cut down trees to get wood for making tennis racquets. The women hugged the trees that contractors were trying to cut down and they refused to let go. This incident proved the hollowness of government's forest policy that emphasized environmental conservation.
- In Kerala, a project was drawn up to build a dam in protected forest area of Silent Valley. The dam was to generate hydel electricity. Local people protested and approached the courts. They won this battle.
- Forest Rights Act was enacted two years ago. According to this act, the tribals and non-tribals (staying in forests) who were tilling land up to 2004, will be given title deeds. These rules however, have not been notified till date and so they lack statutory sanction. Struggle is going on to get this sanction.



- Land Acquisition Act, 1894
- This law has been the main reason of many land struggles. The Act was promulgated by the British and is still in force. It talks of only compensation, not rehabilitation in case of land acquisition.

The agitation that is going on against this Act, has made the following demands

Not compensation but replacement value (of land acquired).

Method adopted by government for determining compensation for house

The government decides the compensation of a house based on annually depreciating value of the house. As a result, value of old houses becomes nil. In that case, the government does not have to pay any compensation or only nominal compensation is required to be paid. People on the other hand, argue that if they have to go to another place and set up house there, then expenditure required for building a house having the same dimensions as of the old house i.e. replacement value of old house must be received by them. Along with it, they ought to get solacium or compensation for the psychological shock sustained by them.

Such rehabilitation is demanded along with the same facilities which were present in their village before displacement.

Participation in development is demanded. Their displacement is taking place in the name of development. So they should become partners in development process.

*"I had a talk with a government officer in Jharkhand. He began to say that tribals should make a sacrifice for nation's development. I queried if our tribals are not a part of our nation. Tribals ask, "We are losing our livelihoods here and now. Progress of the nation will take place in future. So why do not you people sacrifice your future progress for our present-day subsistence?"*

*- Sharad Kulkarni.*

## **History of Struggle for Establishing Right Over Water**

- Water Management was the responsibility of village communities before the British rule. In the pre-British system there were inequalities on the basis of caste. Under British rule, ground water table started depleting because on one hand, efforts of water management were severely neglected while on the other hand, boost was given to irrigated, commercial farming.



- In 1970s as bore-wells were introduced, water level in open wells started going down. Later water level in bore-wells also went down and people started going for deeper bore-wells of up-to 500 ft depth. People started using two machines to draw out water. One machine would draw out water up-to 250 ft depth and then the other machine would do the rest. As water table sunk further, water had to be taken to these places by tankers. People's organizations demand that bore wells should be closed down in all those places where water is being provided by tankers.
- Water pollution is an important issue. In big cities like Pune sewage water, polluted water from factories is directly, without any processing, released into river. People staying in these cities do not use this river water for drinking. They use water coming from upstream areas. However, the polluted water they generate reaches people living in down stream villages. People from these villages will have to put pressure and compel the big cities to treat their water before releasing it into rivers.
- Big dams are built to fulfill water requirement of the cities. The government does not recognize any rights of people staying near reservoirs of these dams. Protest movements against this injustice are also going on. Dam water is meant for villages in command areas of the dam. Water reaches these villages through canals. Area that falls behind the dam reservoir is known as catchment area. People in catchment area are prohibited from utilizing dam water but they do use it.

The following story is about a dam build on the boundary line between Gujrat and Maharashtra states and about farming with water channeled through hose-pipes. We can call it hosepipe farming. Farmers in Maharashtra grow 'Chikoos' here. Their lands are located on banks of the river on which this dam is built. They have dug wells at a distance of 101 feet from the river (because they are not permitted to dig wells within a distance of 100 feet from the river). At night, they put hosepipes to draw river water into their wells and then they use it as well water. Maharashtra police do not object to this but Gujrat police may want to. But since farmers are from Maharashtra, Gujrat police cannot take any action against them without the consent of Maharashtra police. People are successfully adopting these methods of Satyagraha.

- An example of ongoing struggle against privatization of water can be seen in Chhattisgarh, in the context of a dam being constructed on a river, Shevnath. A portion of the river, admeasuring 22.7 kms from the reservoir of this dam was given by the government to Radius Water Company on lease for 22 years on Build - Operate - Own - Transfer (BOOT) basis. After villagers from nearby 15 villages and some organizations in the country protested vehemently, this decision was cancelled. People there said, "If you become owners of the river by building a dam on it, we will pull down the dam." Sometimes, talk of violence has to be used during protests.



## **Invasion of Air & Its Prevention**

Excessive tree cutting, burning of fuels like diesel and petrol and other factors give rise to air pollution which is leading to global warming. Snow has started melting in the North Pole region. Therefore oceanic water level has begun to rise. Its greatest impact is occurring on villages and towns which are located on sea shores. This struggle is yet to reach our door steps. Discussion is taking place at national level. In future, the problem of rising temperature of earth will be exacerbated. To ensure that the pace of development is slowed down, rich nations will have to be forced to limit their consumerism.

## **Participants' Questions**

*Question :* Why do some of our struggles become fruitless?

*Answer :* "Poor People's Movements: Why They Succeed, How They Fail" is the name of a book in English. Its authors Piven and Cloward say that there are two sides to any dam / factory / law. One side comprises of gainers, the other of losers. Gainers are always rich and they exert greater pressure on government. Government employees get work from dams and factories and contractors mint money from them. Their power is several times greater than that of the other side.

*Losers are poor, unorganized and powerless. Therefore, their struggles do not bear fruit.*

To make them fruitful, means such as increasing strength, using mass media, taking out morchas, reaching legislative assemblies and Parliament will have to be used. When dam was being built on Narmada river, strength of opposing forces was not enough for stopping the construction. Then organizations raised hue and cry over this issue. It was taken to the World Bank. As a result, policy of "Rehabilitation First" was recognized globally. .

*All struggles do not fructify but no struggle is a complete failure.*

*Those were the days. We used to take out morchas. We used to shout slogans*

***"Roti , Kapda, Makaan Do  
Varanaa Kursee Chod Do!"***

*(Give us Bread, Clothes and Houses or else leave your jobs")*

*Another favorite slogan was,*

***Is Tooti-Footi Sarakaar Ko  
Ek Dhakka Aur Do!***

*("Give one more push to this ramshackle government.")*

*What was the outcome? We used to be pushed around and the number of our friends would be eroded further.*

*Present day governments are very clever. A place has been made available in Mumbai for carrying out fasts. We can sit there and fast. Want to take out a procession? The government itself shows us from which road it should proceed. Governments do not fear us now. We will have to change our methods. Along with ground level struggle, there will have to be*



*informational and legal struggle. Our struggles must based on specific information such as which section of what Act is to be changed, which rights does it violate etc."*

*- Sharad Kulkarni*

Struggles will go on till mankind is around. We will continue to have successes and failures. If struggles cease, human being's development will also cease. So do not stop, keep struggling.









# 3

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## The Human Right to Water

<b>Resource Person</b>	Malavika Vartak
<b>Duration</b>	90 Minutes
<b>Methodology</b>	PowerPoint Presentation, Slideshow, Discussion

### Objectives

- ☐ To understand the status of right to water in the context of international conventions
  - ☐ To look at right to water in the Indian legal framework
  - ☐ To understand the right to water in the context of national water policy
  - ☐ To discuss the emerging issues of right to water as a human right
- 

### The Human Right to Water

Is there such thing as a human right to water?

If some one says that he/ she needs water, then the fulfillment of this need is no one's responsibility. But if it comes to rights it becomes the responsibility of the government to fulfill it. Therefore organized groups want the word 'rights' mentioned in the policies, laws etc. whereas the government tries to evade using it.

### What Exactly Do We Mean by Human Right to Water?

Article 21 of the Indian constitution talks about right to life, not only for it's citizens but for every one. Right to water is also included in right to life and every human being is entitled to it.

If we look at what is right to water and which treaties specify it, we find that the earlier treaties did not have a direct mention of right to water, it was taken to be fundamental and hence taken for granted. In the later treaties particularly, International Covenant on Economic, social and cultural rights (ICESCR), water is deemed to be a human right.



## **The Human Right to Water in International Law**

- **Article 25(1)** Universal Declaration of Human Rights, 1948 states that “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

Food and water can be included in the necessary social facilities because right to food without water can not be claimed and human beings can not settle without water.

Many more facilities can be included in the list of necessary facilities such as toilets, bathrooms, waste management, sanitation etc.

- **Article 11** International Covenant on Economic, Social and Cultural Rights, 1966

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

- **Article 12** International Covenant on Economic, Social and Cultural Rights, 1966

- 1 The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
  - (b) The improvement of all aspects of environmental and industrial hygiene;
  - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

*All the above mentioned points have a direct link to the availability of clean water.*

## **General Comment 15 and Human Right to Water**

In 2002 the Committee on Economic Social and Cultural Rights prepared General Comment 15 devoted specifically to the Human Right to Water. At that time it was very visible that companies selling bottled water and cold drinks were indulging in excessive exploitation of ground water for profits while the local people were being deprived of water. In this



situation the committee took a clear position in favor of people's right to water and drafted its definition and framework

- **General Comment 15 and Conceptualization of Right to Water** "Water is a natural resource and a public good fundamental for life and health"

"Water should be treated as a social and cultural good, and not primarily as an economic good."

This clearly means that water is not a commodity that can be purchased, sold or owned.

If some one digs a well in his /her own land, can he claim that he owns the water because he has constructed the well on his own land?

No, because ground water comes from several places and gets collected in one place. Ground water is not collection of water fallen on the same piece of land. Secondly ground water is not stable. It flows from one place to another. It gets collected in the ground over many years. If one has modern technologies that can draw excessive water, this affects everybody. In the case of Coca Cola, it emerged clearly that there should be a regulation against exploitation of ground water.

"The manner of the realization of the right to water must also be sustainable, ensuring that the right can be realized for present and future generations". Thus right to water is inter-generational right.

- **General Comment 15 – Core Components**

**Availability.** : The water supply for each person must be sufficient and continuous for personal and domestic uses. These uses ordinarily include drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene.

**Quality** : The water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person's health. Furthermore, water should be of an acceptable colour, odour and taste for each personal or domestic use;

**Accessibility** : . Water and water facilities and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party.

***Accessibility has Four Overlapping Dimensions***

- 1 **Physical Accessibility** : Can all reach resource of water or is water supplied to all
- 2 **Economic Accessibility** : Water is a natural resource but



investment is made in water infrastructure which is charged to the consumers. However this charge should be such that it is affordable for everyone.

**3 Non-Discrimination :** After construction of dams, it's canals are constructed. There is no single dam in the country whose canals have been completed up to the end. The work of canal construction is initiated and carried forward for up to a distance and the abandoned. Water is provided to the fields of the rich farmers but the poor farmers are deprived of water as the tail ends of the canals are not constructed. It is the responsibility of the government to see that such discrimination does not occur.

**4 Information Accessibility :** It is the responsibility of the government to ensure that information about it's schemes, policies etc. reaches the people.

■ Some of the Obligations on States Parties Include,

- (a) To ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease;
- (b) To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalized groups;
- (c) To ensure physical access to water facilities or services that provide sufficient, safe and regular water; that have a sufficient number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household;
- (d) To ensure that personal security is not threatened when having to physically access water;
- (e) To ensure that equitable distribution of all available water facilities and services

- State parties are to ensure that special attention is awarded to those individuals and groups who have traditionally faced difficulties in exercising their right to water, including women, children, minority groups, indigenous peoples, refugees, asylum seekers, internally displaced persons, migrant workers, prisoners and detainees; prohibits the imposition of embargoes or similar measures that prevent the supply of water, as well as goods and services essential for securing the right to water. Water should never be used as an instrument of political and economic pressure. States are responsible for acts of their citizens and companies that violate the right to water of individuals and communities internationally.

In disaster relief and emergency assistance, including assistance to refugees and displaced persons, priority should be given to Covenant rights, including



the provision of adequate water.

- **General Comment 15 – Violations of the Right to Water** : Failure of a State to take into account its international legal obligations when entering into agreements with other states would be deemed as a violation of the human right to water. During the times of disasters, social organizations run camps, temporary settlements etc. They too are bound to work according to the standards set by the international treaties.
- **General Comment 15 – Role of Non- State Actors** : International agencies including World Bank and the International Monetary Fund should take into consideration various stipulations of the right to water in all their work especially their lending agreements.

## **Human Right to Water and Other Treaties**

The Convention on the Rights of the Child, (CRC) - **Article 24 (1) and 24 (2) (c)** makes it incumbent upon States to recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation, of health and for State parties to take appropriate measures to combat disease and malnutrition through inter alia the provision of adequate nutritious foods and clean drinking water.

**CEDAW Article 14 (2) (h)** directs States to take appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to women the right to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communication.

## **Human Right to Water and The Indian Legal System**

- The right to water is not explicitly mentioned in the Indian Constitution but has been interpreted by the Supreme Court and High Court as integral to the right to life enshrined in Article 21.
- **Virendra Gaur and others v State of Haryana (AIR 1995 SCW 306)** "Environmental, ecological, air, water pollution etc should be regarded as amounting to violation of Article 21".
- **M.C. Mehta v Kamalnath (1997) (1) SCC 388** the Supreme Court held that the State is not only bound to regulate water supply, but should also help realize the right to healthy water and prevent health hazards. It also noted that the 'State is assigned a positive role to help people realize their rights and needs'. Using the doctrine of public trust, the Court held that that the State as a trustee is under a legal duty to protect the natural resources. These resources meant for public use cannot be converted into private ownership.



## **National Water Policy 2002**

Recognises water as “a natural resource, a basic human need and a national asset”

The National Water Policy lists water allocation priorities as follows

- Drinking Water
- Irrigation
- Hydro-Power
- Ecology
- Agro-Industries and Non-Agricultural Industries
- Navigation and Other Uses

## **The Human Right to Water and Other ESC Rights : Pitting One Set of Rights Against the Other**

- Yamuna Pushta
- Narmada
- Human Right to Water and Emerging Issues
- Groundwater Extraction
- Privatisation of Water
- Large Dams





## Right to Water for Livelihoods

<b>Resource Person</b>	Seema Kulkarni
<b>Duration</b>	90 Minutes
<b>Methodology</b>	PowerPoint Presentation, Slide Show

### Objectives

- ☐ To view the irrigation policy in existence before 1990 and its impact.
  - ☐ To review the water policy after the decade of 1990.
  - ☐ To know the main points / issues of the water policy 2002.
  - ☐ To understand the impact of this policy.
  - ☐ To discuss the strategies of sustainable, equitable and participatory distribution of water.
- 

### Beyond Land Alone

Most strategies for equitable access to natural resources so far focused on redistribution of land. Pre capitalist societies characterised in a way that this was an important agenda. But several reasons necessitate going beyond land redistribution as an agenda for equitable access to Natural resources

### Water-livelihood Nexus

- Independent entitlements to water are important
- Access to water changes the value of land
- Dissociating water access from land rights opens up space for landless and women.
- Examples of disassociating water distribution from land : traditional Phad system in Maharashtra and efforts of Pani Panchayat and Mukti Sangharsh Chalwal



In Maharashtra, the above successful experiments were carried out which emphasized on equitable and sustainable distribution of water. The interest of both the land-less and the land holders was equally upheld. In Pani Panchayat the land-less person too is entitled to his/her share of water. He/she can sell the share or can make any other use of it.

### **Policy Thrust Before the 1990s in Water for Agriculture**

- Public sector irrigation
- Role in provisioning of water through improved infrastructure
- Huge investments in large storages and canal networks
- Enhancing production main goal of irrigation not improving livelihoods
- Subsidies for groundwater development; no regulation
- Inequitable access to water- large sections of poor and marginalised remain water insecure
- Stagnating irrigation performance
- Large scale displacement of poor
- Unsustainability of irrigation systems
- Depletion of groundwater resource

### **Policies After 1990's**

- From technological fixes to institutional and economic fixes
- Crisis in the water sector was seen only from the perspective of water scarcity.
- The policy change from being Supply Driven to be Demand Responsive
- Reduced investments in irrigation infrastructure
- Emphasis on Institutional and economic reform to manage existing resource

### **Main Features of the New Water Policy 2002**

- This policy refuses to see water as a livelihood resource for community consumption and only has a narrow outlook of viewing it as an economic good.
- **Pricing of Water** : So far ensuring the availability of water was considered to be a state responsibility, therefore the consumers had to share some marginal amount for water distribution. Now water is being priced at market rate.



- **Recovery of Costs** : incurred on constructing water infrastructure and channeling from people. If the community is not able to bear this expense, private companies will be handed over the management of these resources. Now it is happening in less extent; in future this is likely to go up. Now companies like Reliance fresh are engaging in contract farming. They will be sold water (even though people living in the vicinity may not have water to drink). This policy has article which says that a share of water will be given for contract farming.

If we view policy about forest, land and water collectively, we can see that all of these have been made with a purpose to alienate people from these resources and establish control of private sector on the same.

- **Decentralized Management** : Government has failed in its responsibility pertaining to irrigation, drinking water and sanitation despite having availability of water in more than 80% of the country. What is the rationale of decentralized management when water is being turned into a commodity despite its scarcity and the water sector has been privatized? The government is of the opinion that it has been unsuccessful in retrieving the investment in construction of water infrastructure. The task of recovering this money is being transferred to the community under the name of decentralized management. It is important to see whether decentralized management is a transfer of power or the transfer of sick industry to the community.

The above three principles are considered as the self optimizing principles for efficient management of water.

This policy uses feel good words such as community participation. However, in reality the high level planning by the government and opening this sector to private companies has made this policy a dangerous mixture. The community will participate into everything except for deciding how much water they will require. The community will be nowhere in the planning stage. The concept of decentralization has not been brought about so as to increase people's control over the resource or to redefine their rights. The final control will be in the hands of the government and the empowered private sector.

## **Pitfalls Outweigh the Gains**

- The new water policy at least mentions the end users, though creates a divide between users and non-users
- Pitfalls are far too many
- Water user associations are becoming important platforms whose membership is open only to land owners of the command area.



- Who will be the water users - male land users of the command area.
- There is no working relation between water users associations and gram sabhas and the gram panchayats therefore there is no coordination on the issue of water at the village level. Assumptions of community as a homogenous unit- Village is a group of different caste, class, religion, gender and everybody according to their social strata has different entitlements. We can imagine what power those groups would have who are marginalized to begin with viz. dalits, tribals, and women in the working of water users associations.
- No distinction between water for livelihoods and water for commerce: Due to not distinguishing between water for livelihood and water for commerce, the water security of common people is jeopardized.
- Shifting to commercial crops and reduction in consumption crop is leading to reduced food security.

### **Does Decentralisation Favour Women?**

- This policy repeatedly uses the word gender. It describes the drudgery women undergo for obtaining water.
- Women is equal to household work, this ideology is repeatedly emphasized.
- It is being repeatedly said that irrigation is male domain and drinking water is female domain.
- The economic activity is men's domain, women have no say in that.
- The services pertaining to family like (fetching water, washing clothes, vessels, bathing children etc) is touted as women's domain which has no economic yields.
- Because women are not part of the economic domain they are not considered as water users.
- Women, being considered non users of irrigation water they have no membership to the WUA, no entitlements and no decision-making authority.
- Increase in women's labour : The planning is that women will do complete voluntary labour in water harvesting schemes such as Swa-Jal Dhara, Total Cleanliness Campaign etc.
- Decentralisation means shift of control from the irrigation department to the local 'water users' who are largely male.



## **Need for a Gender Sensitive Water Sector Reform, Reconceptualising Women**

- Perceiving women as independent members of the household
- Understanding differences among women such as caste, class, religion etc.
- Gender division of tasks is not static: The policy should not be framed on the basis of present division of labour and women's role in it. Thought should also be given to what women are capable of doing. Women work on the farm, but they neither have any right over the land nor on the income.
- Sustainable, equitable and participative distribution of water

## **Equity in Water Entitlements Requires**

- Ensuring rights of the marginalized.
- Considering water as a productive resource
- Disconnecting water rights from land rights.
- To make a consensus that water is a right in itself.
- Minimum water assurance for livelihood security.
- Integration of various kinds of water resources
- Regulation of groundwater use
- Women's participation in water management
- Participation of all from a community in planning, utilization and control.









## Tribals' Rights Over Forests

Resource Person	Brian Lobo and Shiraz Bulsara
Duration	3 Hours
Methodology	Lecture

### Objectives

- ☐ To see in a historical perspective how the tribals were deprived of their forest rights
- ☐ To understand the provisions of Forest Rights Act, 2006
- ☐ To discuss about the limitations and concerns of this act

### Which Rights are Connected With Forests?

Right to get fodder for animals, fishery, right to catch fish, right to take wood / within limits, to collect food, to hunt for animals (with some restrictions), to nurture forest, right of tribals to dwell, to mine, to collect non timber forest produce, to take fruit and medicinal plants, to housing etc.

### Which of the Above are Statutory Rights?

Mining, hunting, felling trees on private land etc - these rights of people do not have legal sanction. Animals have rights in sanctuaries, people have no rights there. Grazing rights exist to some extent. Some forest produce can be collected, not others (for example, incense can not be collected) Settlement rights do not exist. Medicinal plants can be collected at some places but not in others. There is no right to water, land or boulders.

### So Who has the Right Over Forest?

Government, industrialists and contractors have the right over the forests. Through Joint Forest Management (JFM) people have got some rights on paper. In a few places, people



have won the some rights on the basis of their organization in spite of not having these rights codified.

People do not have any right on forest management, development and forest administration. When British rule was established in the country, people were deprived of their right over resources. Before that people used to manage, nurture and use forests for their livelihoods on the basis of local rules and regulations. Now 25% of the land in the country belongs to the forest department. Forest department is the biggest landlord. How did this happen?

## **How and Why were Peoples' Rights Over Forests Taken Away?**

- British rulers brought with them a particular way of governance. This method relied on taxes levied on people for financing expenditure of administration. If land ownership were widely distributed, more people would pay taxes and the collection of tax revenue would be high. So the British started giving ownership rights to people and to recover taxes from them on the basis of land ownership records.
- There was no concept of individual land ownership among tribals. Their land belonged to the tribe. In order to maintain soil fertility, they used to practice zoom cultivation i.e. after a few years, they would leave the farmland fallow and take up farming elsewhere. When the British started making land ownership documents, they did not recognize tribals' unique social and cultural practices and they nullified their collective ownership. This was a great blow to tribals in the whole country. It deprived them of land and means of subsistence at one stroke. The British were interested in forests for only one reason: monoculture of timber. With disinheritance of tribals, a major obstacle to imposing their total control over forest wealth was removed. However, it sowed the seeds of many struggles which tribals led against the British.
- The British response to their struggles consisted of merciless suppression and passing some unjust legislation.
- The first Forest Act was passed in 1856. It turned all forests in the country into a public asset. It did not recognize rights of people who were living in and using forests. Overnight forest dwellers who were using it for subsistence became criminals and those who wanted to exploit forests for profit became the owners.
- Subsequently in 1929 Indian Forests Act was passed. Its objective was to consolidate government's rights over forests and to reduce peoples' rights. These two acts are completely silent about people's rights. What we refer to as right to livelihood was regarded as concessional privileges in the Act. Thus people's rights were converted into governmental patronage.
- There was no change in the Acts pertaining to tribals and forests even after



Independence. Only those tribal groups which had fought with the British and hence termed as Notified Tribes to refer to their so called criminal status were de-notified in the Act so that they could resume status of ordinary citizens.

- After independence, government started *Grow More Food* campaign. Under it tribals cut down forests, developed land and started farming it in the decade of 1950-60. In the decade of 1970, government changed its policy. At some places in Gujarat and Madhya Pradesh, efforts were made to oust people from these lands. Because of the agitations, many state governments issued orders for giving ownership titles of these lands to the tribals. Postcard petitions were popular around this time. Justice Bhagwati advised tribals in 1985 that they could register their names with Supreme Court to obtain their land rights, if governments were not taking the necessary action. Around 1000 tribals made a petition to Supreme Court to get their names registered as land-owners. Supreme Court ruled in their favour. If persons who were cultivating land could not produce documentary proof of ownership, oral evidence by local Gram Sabha or official of the Panchayats were accepted by the Supreme Court.
- Wild life protection act was passed in 1972 when consciousness about animal rights came into being. However, it led to further shrinking of tribals' rights. Forest Development Act, 1980 reduced tribals rights even further. As per this Act, if forest land is to be used for any purpose other than forestry, permission of central government is necessary.
- Forest Conservation Act, 1980 It prohibits use of forest land for non-forestry uses such as farming mining, manufacturing etc. If non-forestry use is essential, then by giving Rs. 5 to 9 lakh per hectare to government, change in use of forest land could be brought about. Only rich people can pay this kind of money, not common people. By citing provisions of this Act, Forest Development could prevent tribals from cultivating land or from giving them ownership titles to land. The law started getting used against people.
- Obviously, the capitalists started buying forest land using the provisions of this act.

*Tribals called 'Kond' stay in a forest area in Orisa. The area is rich in bauxite ore. Vedanta Company did not get permission for mining the ore of bauxite. The court ruled that permission could not be given because this Norwegian Company was involved in financial irregularities in some other countries. However, the Court ruling also added that permission for mining could be granted if Sterlite, a subsidiary of Vedanta, agreed to share its annual profit with the government. It appears that the court showed Vedanta a way for meeting its objective.*

*In this way forest has become a marketable commodity*

- In 1996, Supreme Court ruled that whenever there were trees, there was a forest and whenever forests existed, Forest Conservation Act would be



applicable. The effect of this ruling was that the right to non timber produce which existed in the form of patronage was also nullified. People were deprived of collecting even dead wood from the forest.

- In 2002, a Central Empowerment Committee was formed to decide all matters related to forestry. Only officials of Forest Department, rich persons and businessmen invoking environmental issues were members of this committee.
- The committee's first order in November 2002 was that people who did not have ownership documents be evicted from forest land. Tribals started getting displaced from jungles all over the country. They did not have documentary proof of land ownership. This led to protests and agitations in many places.
- All these statutes were unjust. People's organizations realized that it was pointless to approach Supreme Court when no statute about jungle dwellers' right to forests existed in the country. A statute is more important than a Government Resolution (G.R.) even if the latter were to favour people. So people started thinking that there should be a statute regarding peoples' right to forests. Because of people's pressure and some other reasons in 2006, Forests act was enacted Acceptance of Right to Forests of Scheduled Tribes and other Traditional forest Dwellers or Girijan Notification was passed. It is popularly known as Forest Rights Act, 2006.
- The Act recognized for the first time people's right over forests.

## **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

### ***Better Known as Forest Rights Act***

- According to this act tribals who were cultivating forest land till 13 December 2005 will get ownership of land. Forest land means non-classified forests, unbounded areas deemed to be forests, protected forests, reserved forests sanctuaries and national parks.
- For non tribals, the same provision would be applicable if they were staying and cultivating forest land since December 1930.
- Title deed will be in the joint names of husband and wife or the survivor.
- Every family will get ownership over the same area of land within a limit of 10 acres as it has occupied of forest land.
- Land thus owned cannot be sold to anybody nor can it be transferred to any other person, save one's children.
- If forest land has been acquired for some development project of state government but in case the project did not start within 5 years of land



acquisition, then tribals' or other traditional mountain dwellers' (who were displaced for this project without getting compensation) rights over such land will be restored.

- People whose land is under dispute with Forest Department will have right over that land.
- All forest villages will be revenue villages. Old settlements and non-surveyed villages will also be revenue villages.
- There will be collective right over forests for livelihoods. For domestic and social necessities all will have collective right over forests
- Rights over non timber produce e.g. tendu, bamboo, tussor, cocoon, honey, wax medicinal plants, roots and bulbs, fuel-wood, states metal, fish etc. These rights include the right to collect these things, use them, fetch them on a bicycle or in a bullock cart from the jungle and sell them etc.
- Right to Fish and other catch from ponds and grazing lands – villagers as well as nomadic groups have traditional rights over them.
- Collective rights of aboriginals and pre-agriculture communities have been recongised.
- Rights have been recognized of those who have got title deeds or lease or grants from government
- Collective right over biodiversity and intellectual property and traditional knowledge. Companies take medicinal plants as well as information from tribals and then they patent the information. To prevent this from happening, this Act recognizes right of tribal groups over information about medicinal plants. Ways of opertionalizing this right are not yet framed.
- If Forest Department has ousted a tribal prior to 13 Dec. 2005 and he has not got compensation nor has he been rehabilitated; then he can come back to his original place and start staying there.
- No member of tribal groups or groups of other traditional mountain dwellers in any forest will be ousted till recognition and verification process is completed.
- Aboriginals have a right to resort to zoom cultivation in their areas.
- Right to conservation forest – it is a very important right for establishing people's rights over not only forest land but also the whole forest.
- Right to use land up to one hectare for developmental works.



## Critique of this Act

- This Act does not recognise right to take timber for constructional use and the right to hunt. People's rights will be recognised not by government but by Gram Sabhas. A Gram Sabha is entitled to make decisions. However, its power is circumscribed First a sub-divisional and then a district level committee have been placed above Gram Sabha. People feel that Gram Sabha should have all the power.
- The Act thus has some deficiencies. At the same time it has some possibilities and after people become organized, they will get the power to make decisions in self-interest.

*"Who are environmentalists? Are you an environmentalist? In a sense, we all are environmentalist in as much as we want forests to be saved. However, some fundamentalist environmental activists believe that mankind will be destroyed in future and that will happen because of (wrong deeds of) human beings. Therefore for animals there should be such an inviolate place where human beings can not reach. Such places should be created. For them the protection of the animals is so important that the rights of people who have been staying in forests for centuries become secondary.*

*With the influence of this line of thinking, protected forests for tigers have been created at many places. Sariska in Rajasthan is one of them. Not a single tiger is to be found there. Government does not believe that people conserve forests. Therefore, Forest Rights Act recognizes people's right to only conserve but not manage forests. It is a challenge to organizations such as ours that we use the Act as a means to re-establish people's rights over forest and not restrict it to their right over land. Where people are organized, there is a chance that ownership of land occupied by people is made in their name, collecting forest resources are earmarked in Gram Sabha etc. so that no other person or company acquires a right over them."*

*- Shiraz Bulsara.*

- Forest Rights Act, 2006 is being opposed by environmentalists because they have no faith in people's ability and commitment to protect forests and wild life. Private businesses are opposing it because they foresee the danger that Gram Sabhas will prevent them using forest land and resources. Because of this opposition, this statute has not been enacted till date. It has not been notified.<sup>1</sup>

*"In spite of Forest Development Act, 1980, being in force, how much forest land has been used for non forest purposes since 1980? Totally 11.33 lakh hectares have been put to such use. For mining 90,000 hectares were used till 1994 and since then 73,000 hectares have been used forest land has been used for dams, highways, railways etc depending upon government's wish. It is only tribals who are not given even 2/3 acres per family which they have been cultivating for generations and have a right over it for livelihood.*

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<sup>1</sup> The Act has been notified and has become applicable since 1 Jan. 2008. This session took place in December 2007.



*It is clear from this that whatever be the good name of the law it can be abused for the benefit of trade, industry and against the rights of people. To ensure that the forest rights act is not abused and is used only in the interest of tribals, we have to become aware and empower people."*

*- Brian Lobo.*

- Global warming has become a reality now. Perhaps our relationship with nature has changed. The only constant relationship is that of tribals with nature. All ancient civilizations in the world have grown in the cradle of nature and only they can show us the way out of this danger.
- There also exist some people who take an opposite stand over the above issue. Their view is that the clock cannot be put back. Everything has moved ahead. Selfishness and consumerism have appeared in tribal society also. The role of protecting our forests is a very important one and it will have to be done intelligently with the help of scientific techniques. For leaving the role to tribals is going to make matters worse.
- This viewpoint is not acceptable because of the experience at Sariska, Rajasthan. All the intelligent advance methods used there to protect forests have not protected a single tiger for the last 20 years. In contrast, tribals and animals have peacefully lived together in forests for thousand of years.

**Carbon Trading :** *Rounds of talks at international meetings held at Kyoto and Doha have discussed about which types of energy generation should to be stopped and about banning processes which generate poisonous substances which destroy environment.*

*It transpired in these talks that countries like China and India should ban these generation processes but not USA and European Countries. Western Countries will give money to India and other poor countries to cultivate plants / trees such as castor, Jatropa which give bio-fuels. Western Countries will get a right to pollute in proportion to money they give for generating bio-fuel. This is carbon trading. It aims at reducing generation of carbon in the world. The mechanism that is used for this purpose is that a country earns credit for generating bio-fuel and credit can compensate for pollution it creates.*

*Western countries say that restrictions should be imposed on India and China because they have the largest population and because they are growing very fast and generating plenty of pollution. Secondly they do not have sufficient funds for producing bio-fuels. However, they want land of poor countries to be used as far as possible for bio-fuels. So pieces of land to obtain which our tribals have fought for 30 odd years is not to be used for growing food for themselves but for growing castor and Jatropa for the rich. Third world governments will give their forest lands for this purpose on which the tribals have their traditional right but have not been recognized as yet. What will happen to food security of people? What will they eat? Leaves of Jatropa? This is perverted environmentalism which disregards people's hunger but supports the causes of protection of environment.*

*Consumerist lifestyles and American / European factories generate non-biodegradable waste. Their concern is how to dispose it. They already have a high level of pollution. So*



*they are thinking of dumping it in poor countries because the latter have less pollution or are pollution – deficit countries!*

*Such policies for which our governments support endanger environment and also violate people's rights. They should be opposed."*

*- Shiraz Bulsara*

### **Participants' Questions**

*Question :* What does this Act provide for widows?

*Answer :* Land is to be registered in joint names. If an individual is head of family, then his/her name will come on the title deed. Widows can benefit from this provision.





# 6

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## Tribals and Land Laws

<b>Resource Person</b>	Brian Lobo
<b>Duration</b>	90 Minutes
<b>Methodology</b>	Lecture, Discussion

### Objectives

- ☐ To provide information about land laws related to tribals
  - ☐ To discuss strategies related to ground level struggles of land rights
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### Development from the Tip of a Gun : A Film

The session began with a film show. The film – “Vikas: Bندوق ki Nal Se” (Development from the tip of a gun) is based on peoples’ struggles for land and forests in Kashipur, Orisa, Koel Karo, Jharkhand. Later there was a discussion on the film

In Kashipur, Orisa, government took land from tribals without their permission and gave it away for industrial development. When companies came to occupy land, people protested. Police force was present in strength. They beat up people and opened fire on them which led to death of some tribals.

In Tapkara, Jharkhand, state government rained bullets on tribals who were protesting against Koel Karo dam. Eight persons died in that encounter. Here too, peoples’ grouse was that government had grabbed their land.

### Discussion on Film : A Summary

Struggles for resources whether forests or land, are imposed on tribals. These people live peacefully in forests. For development or for satisfying somebody’s greed, they are forced to confront violence and then they are compelled to lead a struggle for their very survival. Sometimes, it is losing fight but occasionally rays of victory are also glimpsed. In all these



struggles, the strength of people's organization and their bonding with one another can be clearly seen.

## **Land Laws in the Context of Tribals**

- After Independence, government took steps to redistribute land and other resources for creating a socialist society. Some statutes were then passed to change ownership of land.
- Land Ceiling Act and distribution of surplus land among landless persons
- Objective of the above Act was to nullify ownership of surplus land among big landowners and to distribute this surplus land among landless people. Land is a state subject. Therefore different states passed different statutes for this purpose.
- Land Consolidation : The government tried to consolidate land that was divided into many small pieces in order to form economically viable cultivating units.
- Abolition of Zamindari through Tenancy Act

Zamindars used to give their land for cultivation on share-cropping basis or they made use of bonded labour. These practices were abolished under tenancy legislation and "Land to the Tiller" policy was adopted.

Land Ceiling Act and distribution of surplus land were nowhere implemented properly. So Zamindars remained Zamindars and the landless remained landless.

- A tribal sub-plan was prepared in each state. It provided that no body could take away land belonging to the tribals. If land is taken away then it has got to be restored. (Restoration Act) During 1970-72, organisations such as Bhoomi-Sena led struggles for taking back tribal land from non tribals.
- An Act in Andhra Pradesh provides that only tribals can own land in scheduled areas.
- A special Act in Madhya Pradesh provides that all non tribal land holders have to file returns to explain how their land came in their possession. However, as in the case of other laws, this Act also is not implemented.
- Some struggles were carried out to ensure that laws to protect rights of people in tribal areas were passed and that they were put into practice.

## **Strategies**

Some lesson which the resource persons have learnt after two decades of struggle in tribal areas can be useful while fighting for the rights of tribal people.



- Those who tell maximum lies, win court cases.
- Lies are prepared well in advance, from the lowest levels (in offices of Patwaris)
- Land occupation is the most important matter to a poor person. Poor people can never win the battle for land, if they leave the possession of their land. So they should never give up land occupation.
- We should strive to change laws.
- Just because tribals do not approach courts, it does not mean that the other party too will not. Therefore they must be helped to be ready for court battles.
- Battles can be won on the strength of unity, courage and collective strength.

### **Participants' Questions**

*Question :* If tribals have title deeds no one can take away their land. However, in our area, Jindal Company is doing precisely that. How does that happen?

*Answer :* If land type is changed to non agricultural land use, then it is possible. Such land cannot be restored to first owner.









## Salwa Judum

Resource Person	Asha Shukla
Duration	90 Minutes
Methodology	Lecture

### Objectives

- ☐ To introduce participants to the history of Salwa Judum.
  - ☐ To learn about the human rights violations being perpetrated in the name of Salwa Judum.
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### Naxalite Movement and the Bastar Tribals

*Naxalite Movement and Salwa Judum are both following a dangerous course of action. Naxals who previously restricted themselves to quarrels with the police and killing police informers, have now killed hundreds of tribals who take part in Salwa Judum. This man slaughter continues till date. In the 60's, tribals gave refuge to Naxalites when they came to Bastar from Andhra Pradesh. It is ironical that Naxalites are now mercilessly killing their saviours.*

We will have to take a historical review to put both the developments i.e. Naxalites' active presence in Bastar and Salwa Judum, in the right perspective. Only then will we be able to understand these issues clearly.

We have to go right back to the independence of the country. Dissolution of erstwhile princely states into Indian republic began immediately after independence. Hyderabad was a powerful princely state in the south and the Nizam of Hyderabad was reluctant to join the Indian republic. Communists too, opposed the move and thus began a long drawn battle. Army was called to suppress the struggle. When the army's pressure intensified, communists fled and sought refuge in Bastar. Shri Narhona was then the District Collector of Bastar. He shot down two communists.



The geographical boundary of Bastar is contiguous with 3 states: with Andhra Pradesh at Konta, with Orissa at Malkangiri and at Kutru with Maharashtra. Naxalites travel in and out of Bastar from these three places. The road from Andhra has been in use for at least two centuries before independence. It was and continues to be a major trade route. As mentioned above, communists came to Bastar to escape Army action. Thus, they came in close contact with lives of Bastar tribes. They observed the exploitation of tribals from close quarters and developed a deep understanding of their problems. Maraiguda was the first village that offered support to communists and from here they started assimilating with tribal life. At that time, government petty functionaries such as the village patwari, revenue officers, forest guards and police sepoy's gave maximum trouble to tribals and Naxalites began their work with them. They started holding courts from village to village and meted out instant justice. They started punishing these government officers. Gradually they won the trust of tribals and both started living together harmoniously on the basis of common understanding.

These early Naxalites were all from Andhra Pradesh. They adopted not only the lifestyle of tribals but also their language and dietary habits. They started coming to the forests and tribals also started moving with them, carrying their luggage. Both, men and women joined the Naxalites. From this point onward, Naxalites started keeping tribals with them. People started referring to these tribals as members of the Dalam and thus the tribal Dalam came into being. Later tribals were offered some positions in the Sangh and these tribals were called Sangh members.

## **Naxalites in Conflict with Authorities**

According to police records, particulars of the first case filed as a naxalite case in 1967 are as follows: A naxalite activist, Rafiq, held a torch rally on cycles with 200-300 people in the Konta block on Andhra border, raising slogans against exploitation, slogans hailing naxalism. Around the same time, Shri Shankar Guha Niyogi and one of his friends by the name of Murthy put up posters about the naxalite movement on the walls of Jagdalpur. Police caught and imprisoned them. They were later released on bail. In the mean time, a Robin Hood like image – robbing the rich to help the poor - was created in the minds of people for naxalites. Naxalites gained such strength in Bastar by 1980s that even the state administrative machinery was petrified of them. In 1981-82, the then Chief Minister Arjun Singh set-up a special Bastar battalion to bring the situation under control. Police force in Bastar increased in number and many new police stations were set up. A lot of money started coming in to eliminate naxalites. In the name of security, there was no accounting for this money. In spite of all this, naxalites and police continued to enjoy a good rapport. However, an incident in 1984 turned the situation around.

A company of Bastar Battalion under the leadership of Commander Rai was carrying out a search operation in the village Tadbayli near Narayanpur. Naxalites had also put up camp in Tadbayali and their commander Gripati was resting. Police shot him in his temple and this incident was later described as police "encounter". Naxalites protested against this allegation and thus began the fight between police and naxalites, which continues till today.



## **Violations Against Tribals and the Beginning of Salwa Judum**

This is not the first time that Salwa Judum is being organised in Bastar. It had been organised some 15 years ago too and back then it was called “public awareness campaign”. Youth leader Mahendra Karma had led the campaign then and in a sense he still holds the reins of the current Salwa Judum campaign. He politicized the entire campaign and gradually, the tribals started distancing themselves from it. Tribals were caught betwixt the police and the naxalites. If they didn't support the police, they were harangued by the police; if they didn't support the naxalites, they had to face the ire of naxalites.

By 1984 peace in Bastar was ravaged. It has been in the headlines since June 2005 and not a month passes by without at least one or two reports about violence in this area, that leave a deep wound in the heart. In 2000, when the state of Chhatisgarh was formed, the new government had its eyes fixed on the resources of this area. Thus began a new era of atrocities. Tribals fed up with the daily wrangling between police and naxalites convened a meeting with the initiative of a local teacher, Madhukar Rao, in which it was decided that they would now support neither the police nor the naxalites. After the meeting, villagers beat up some Sangham members and declared that they (the members) would be pardoned in a meeting at Panchamool. In response, a big meeting of tribals was held in Talmaindri which was by one estimate, attended by about 2000-3000 tribals. Naxalites attacked the meeting and around 100 tribals were killed. The government took advantage of this situation and Mahendra Karma hijacked this “Salwa Judum” campaign (getting together for peace) which was so named by the tribals. A spontaneous movement by the locals thus became a puppet in the hands of corrupt politicians.

## **Salwa Judum and Human Rights Violations**

Villages from where Salwa Judum had started now came under fire. Naxalites started attacking these villages and the government found the perfect excuse to oust tribals from their land and forests. Tribals were shifted to relief camps located by the roadside and they are now completely at the mercy of the government. In the beginning they were given food, water etc. but now they are being given jobs under the National Rural Employment Guarantee Scheme. There is no assurance of wages or of food. Relief camps have become concentration camps. Approximately 39,000 children are out of schools, hundreds of hectares of land are lying fallow, birth-rate in the camps has started declining. Guns have been thrust in the hands of young boys and girls and they have been deployed as Special Police Officers. As Salwa Judum continues, tribals are getting divided into ranks. A major divide has come up between those who are part of Salwa Judum and those who are staying away from it. Both Congress and BJP workers are active in the backdrop of this movement, killing each other in the name of groupism and party-ism. This campaign has become confined to Konta block. Once marked by the solidarity exhibited by tribals for seeking liberation, the very purpose and nature of this campaign has been distorted due to government's intervention. On the one hand, government has thrust weapons in the hands of tribal people who are a part of Salwa Judum for eliminating their own people and it has given a free license to its corrupt leaders and activists to carry out an open loot of resources in the area. On the other hand, naxalites are perpetrating violence on the tribals. They



made a public appeal for pardon and at the same time carried out mass killings at Rambodli. After the killings at Errabor camp, the tribals have nowhere left to go. For the last 2 years they have been languishing in roadside camps, struggling to find two square meals a day. Out of fear, they can neither return to their villages, nor have they been able to come to an understanding with the government and the administration.

Currently, the naxalites are busy fighting the police. Several forces of the police have been deployed in this area and the government is fuelling money to put an end to the naxal movement. The Public Security Act has been enforced due to which civil liberties of the people are being curbed. People's organizations as well as the public are helpless. The campaign itself has become violent and directionless. The way things are, it is difficult to say what end it is going to meet.

## **Participant's Questions**

*Question :* Which party is this campaign being supported by?

*Answer :* The campaign is being supported by both – the ruling party and the opposition. This is one issue where they share a common understanding. Even human rights activists are being given the cold shoulder.

*Question :* What is the situation in Bastar today?

*Answer :* The weekly markets have not been held for a long time now. These were a medium through which people came together, established communication, interacted. Now it no longer exists. This is another reason why people cannot get organized.

The naxalites blow away the school buildings, lest the army set up camps in them. Hundreds of schools have been razed to the ground. No service provider wishes to come to this area. Basic facilities like health, education, water etc are in a pitiable state.

Minor forest produce is not being collected. Tribals can no longer weave things to be sold in the markets. The tendu leaves from this area were known for their good quality. The beedi industry has also suffered due to non-availability of tendu leaves. People are migrating in droves. There was a time when there was no dearth of resources – be it farming, foodgrains, forest produce, mahua - Bastar was the land of prosperity. Now people are leaving Bastar and along with them the last shreds of its rich culture and heritage are also fading away.





## Mining and Violation of Human Rights

Resource Person	Devika Biswas
Duration	90 Minutes
Methodology	Lecture, Discussion, Group Work

### Objectives

- ☐ To understand the concept and the process of mining
- ☐ To understand the laws and policy about mining
- ☐ To discuss about the violation of rights in the context of mining

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In the beginning resource person distributed chits of paper among participants and asked them to write words related to mining on them.

### What is Mining?

- To dig a well or a grave is not mining. To carve out caves such as Ajanta, Ellora is also not mining.
- Objective of mining is to draw out underground substances from the earth. Substances that are mined may be metals or non-metals.
- If coal deposits exist in somebody's land, can he mine it? No, because minerals are national wealth and government has the privilege of protecting and utilizing national wealth in common interest.
- If old coins are buried below our homes, can we say they belong to us since they were taken out from beneath our house? No, Old coins are a part of our historical heritage and so they too, represent nation's wealth.



## **Mining Process**

- The government has formed a Corporation for Mining. This Corporation can issue licenses to private companies and ask them to carry out mining operations.
- If there exists a possibility of getting some ores from private land, an investigation team carries out probability tests.
- If minerals are found, then land acquisition notice in the name of President of India is served on the land owner.
- Compensation for land thus acquired may / may not be received because so far only investigation is carried out.
- Then satellite investigation is carried out. When mineral deposits exist in some land, its satellite pictures show the area in different colours.
- Land acquisition and displacement are two sides of the same coin. People have to be displaced for mining.
- There is always a possibility that rights of the people who are displaced would be infringed viz. housing, health, education, water, movement, livelihood, food, land, environment, fuel, culture, security rights etc.
- People and people's organisations strive to protect their rights on the basis of Indian Constitution, human rights, Universal Declaration of Human Rights, Economic, Social and cultural rights etc.

## **Laws**

For matters relating to mining, there exist two laws in the country. These are : Mines Act, 1952 and Mining and Minerals (Development and Regulation) Act, 1957. Mining and Minerals (Development and Regulation) Act incorporates Minerals Concession Rules, 1960 and Minerals Protection and Development Rule, 1988. Mining Rules, 1955 deal with workers safety and health and have been incorporated into Mines Act, 1952.

## **Mining Policy**

*Some sections in India's mining policy pertain to tribals, forests and environment. They are as follows,*

- **Section 7.10 : Infrastructural facilities and regional development :** Mineral deposits are found mostly in inaccessible and undeveloped locations which have few infrastructural facilities. This leads to difficulties in developing minerals to an optimum extent. It is mostly tribals who live in these places. It does not appear that mineral development has assisted in bringing about economic development of tribals. Compared to the capital investment that is



taking place in mining projects, the mining industry has fallen short of bringing about regional development. In these areas, due emphasis will have to be given to development of infrastructure, mining and regional development along with social and economic development of tribals and other local communities.

■ **Section 7.13 : Minerals Prospecting and environment protection**

**7.13.1 :** Minerals prospecting is linked with other natural resources such as water, and forests. Mineral rich places can be rich in terms of other resources also. Some places are sensitive from an ecological point of view while others may be biological rich. In such places, it is necessary that use of land strikes a balance between developmental needs on the one hand and protection of forests and environment, on the other. It will be ensured that these two aspects will be harmonized and sustainable mineral development will dovetail with environment protection.

**7.13.2 :** Mines, particularly, open mines lead to the problem of soil erosion. Closed mines face the danger of landslides. Mining is associated with problems of destruction of forests, environment pollution, pollution of rivers and rivulets, disposal of solid waste brought out from mines etc. Forests are destroyed because of mining. It is an inherent part of every mining policy to attempt to prevent or reduce the above adverse effects of mining and to revive destroyed forests through tree plantation as per specified rules.

Generally mining will not be undertaken in biologically / environmentally sensitive or rich regions. Mining should be avoided in any part of forest. If it is absolutely necessary, then mining should start only after all particulars of tree plantation programme are worked out.

*However, the implementation of above policies which are in the interest of the tribals and for environmental protection is rarely done.*

## **Right of Compensation**

These who are displaced because of mining, have a right to be compensated but compensation is only for the yield of land. Land provides livelihood generation after generation. Compensation in terms of only its yield will last for how many days?

## **Rights of Women**

Women and children are prohibited from working in mines. In spite of it, women work there. While giving them work, care is taken by mine owners not to show them as workers on paper. Therefore they do not get rights and benefits to which workers are entitled. Consequently, they are deprived of other rights viz right to livelihood, to wealth, to security, to employment etc.



## **Discussion on the Film “Kala Patthar” and “Buddha Weeps”**

### **'Kala Patthar'**

The movie 'Kala Pathar' was shown and main events in the movie were discussed. This film is based on Chasnalla tragedy. Chasnalla mine had become water logged due to the mine owner's profiteering motive and lack of responsibility. Hundreds of mine workers died in this tragedy.

### **'Buddha Weeps'**

The movie 'Buddha Weeps' is based on mining of uranium in the area of Jadugoda mountain. The film shows the effects of mining of radioactive substances on lives of tribals and environment. Locals say that prior to mining also, the mountains used to sometimes appear shiny and lighted, especially at nights (due to the presence of uranium) but there were no serious problems as we witness today.

After seeing the injustice, disregard to peoples security in this film, we can guess how powerful those people are who are violating others' rights with impunity. We can also see how powerless tribals are without proper organization. There are two types of people working in the government. One type is of discerning persons and another is of those who follow orders. Discerning persons are few; most people play the second role. Some officers accept that violation of rights is taking place. On the other hand, there are officers who maintain that radioactive waste is not harmful. Governmental documentation is always correct. They have evidence of sending out notices though actually no one might have received them!

Jadugoda, a tribal town located in the mineral-rich East Singhbhum District of Jharkhand State, is the only source for Uranium in India, and it has paid a heavy price for it.

Unsafe mining, milling and tailings management by Uranium Corporation of India Limited (UCIL) in this area for almost 30 years have resulted in excessive radiation, contamination of water, land and air, destruction of the local ecology, have led to genetic mutation and death for the people of the region. Compounding the problem is the fact that villagers,



*Some pictures showing impact of uranium mining on people of Jadugoda, Jharkhand*



evicted from their lands, work as miners and are exposed to a heavy dose of radiation. The film attempts to depict the gross misuse of power by the authorities in displacing the original inhabitants of the region, the utter lack of concern for internationally accepted norms and safety precautions in the handling of uranium and its by-products, and their callousness of its disastrous impact on the people and the region. UCIL, responsible for operating the mine denies the allegations and refuses to acknowledge the problems - rather, it has been lobbying to open new mines in Jadugoda and in other parts of the country.

### **Participants' Questions**

*Question :* If substances like uranium are causing radiation, should not people in that area be shifted out?

*Answer :* So you are again talking of displacing people for their own safety! The very same people will then go and work in mines where they will come in direct contact with radioactive substances and so the effects on them will be even more serious.









## Issues Related to Land

Resource Person	Jayant Verma
Duration	90 Minutes
Methodology	PowerPoint Presentation

### Objectives

- ☐ To learn about the various issues related to land and also study certain laws for governance of land in India.

### Issues Related to Land

<ul style="list-style-type: none"> <li>Basic needs - food, clothing &amp; shelter</li> <li>Employment</li> <li>Poverty</li> <li>Unemployment</li> <li>Development and displacement</li> <li>Migration and urban slums</li> <li>Bonded labour</li> <li>Indebtedness</li> <li>Farmers' suicides</li> <li>Nandigram / SEZ</li> </ul>	<ul style="list-style-type: none"> <li>Causes of disputes (wealth, woman and land)</li> <li>Indira Gandhi's assassination (Khalistan)</li> <li>Rajiv Gandhi's assassination (LTTE)</li> <li>Tension between India and Pakistan</li> <li>Terrorism in Jammu and Kashmir</li> <li>Terrorism in North East</li> <li>Naxalite movement</li> <li>Separatism</li> <li>Terrorism</li> <li>Dispute between Palestine and Israel</li> </ul>
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### Importance of Land

- Identity of a nation/ sovereignty



- Community's physical resources (water, forest and land)
- Necessity for shelter
- Major source of State's income
- Biggest resource for production
- Source of metals, minerals and precious stones
- Agriculture, forestry and horticulture
- Raw material for industries
- Collateral for loans
- Symbol of power
- Dominance over dependents on land
- Social prestige
- Biggest resource for economic progress

## **History of Land Management**

- Evolution of civilization with agriculture
- A society divided amongst tribes used to derive resources like forest produce, foodgrains, fuel and construction material from the land under its control.
- Land, a major source of State's income
- Custom of donating or gifting estates and villages by kings to religious organizations.
- Agriculture became a major source of livelihood and a certain portion of the produce was given to state treasury.
- During the reign of Akbar, the finance minister Raja Todarmal developed "Dahsala" system in 1570-80 for administering tax on produce. Tax liability was determined on the basis of land classification, average yield etc. Land revenue related legislation was drafted. Various intermediary posts established Patwari, Mukaddam / Patel, Kannugo, Desai, Malguzar, Khazanedar, Bitikachi (revenue secretary) etc.
- British rule established posts of collector, commissioner which continue till date.



## Provisions Related to Land Development

- Constitution: Land administration a State subject.
  - United Nations General Assembly adopts Declaration on Right to Development in 1986
    - Right to self determination (of the people affected by development work)
    - Full sovereignty over natural resources (sovereign rights of local communities over natural resources)
    - Popular participation in development
- (While seeking assistance from international institutions, it is necessary to comply with these three conditions. World Bank assistance to Sardar Sarovar Project was cancelled because of non-compliance).
- Planning Commission's stipulation for cost benefit ratio in case of developmental projects : 1:1.5
  - Constitution of India, Article 21 - Protection of life and personal freedom. **Olga Tellis and Others vs. Bombay Municipal Corporation Case** : The Supreme Court ruled that right to life is illusory without the right to protection of means by which alone life can be lived.

## Universal Declaration of Human Rights (UDHR), 10 December 1948

**Article 25(1)** : Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

The Constitution of India does not explicitly grant the right to land, food, clothing and shelter. However, the State is bound to fulfill these rights since it has ratified the UDHR.

## Constitution of India : Directive Principles of State Policy (Article 39)

Certain principles of policy to be followed by the State : The State shall, in particular, direct its policy towards securing:

- (a) that the citizens, men and women equally, have the right to an adequate means to livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;



- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

## **Laws Related to Land**

*Some laws related to land applicable in Madhya Pradesh are listed below. There exist similar laws in other states as well.*

- Land Acquisition Act, 1984
- Madhya Pradesh Land Revenue Code, 1959
- Ceiling on Agricultural Holding Act 1960
- Urban Land (Ceiling and Regulation) Act, 1976
- Madhya Pradesh Moneylenders Act, 1934
- Madhya Bharat Abolition of Jagirs Act
- Madhya Pradesh Revenue Book Circulars
- Scarcity Manual
- Agriculturists' Loans Act
- Central Provinces Land Alienation Act, 1916
- Central Provinces Court of Wards Act, 1899 (now repealed)
- Urban Land (Ceiling and Regulation) Repeal Act, 1999
- Madhya Pradesh Public Money (Recovery of Dues) Act, 1988
- Panchayats (Extention To The Scheduled Areas) Act, 1996 -The power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe (article 4(m)(iii)).
- Madhya Pradesh Land Revenue Code, 1959 - If a non-tribal or tribal purchases tribal land through fraudulent and treacherous means it has to be returned to the original owner of the land (section 170(B)).
- The Bonded Labour System (Abolition) Act 1976

## **Madhya Pradesh Land Revenue Code, 1959**

- **Section 155** : Right of tehsildar to take possession of land for recovery of land revenue



- **Section 176 (1)** : Right of Tehsildar to take possession of land if a landlord ceases to cultivate land for two years or fails to pay land revenue.
- **Section 193** : Suspension of tilling rights in case of use of agricultural land for any other purpose.

## **Other Laws Related to Land**

- Cantonments Act, 1928
- Indian Forest Act, 1927
- Forest (Conservation) Act, 1980
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
- Madhya Pradesh Town and Country Planning Act, 1973
- Nazul Manual

## **Rural Poverty**

- In rural India, only 5% of rural landholding is controlled by 75% of the population.
- 60% of rural people own less than 1 hectare of land.
- 11.24% of rural population in this country is landless.
- Due to acquisition of land for development projects, small and marginal farmers are being deprived of land.
- Farming has been turned into a loss making occupation. Therefore small and medium farmers are now induced to sell their land.
- 50-60% of small and marginal farmers cultivate non-irrigated land.
- 27% of people from tribals, dalits and backward castes are migrating from villages for livelihood. Half of them are women.
- As per the report of the National Commission for Enterprises in the Unorganized Sector chaired by Arjun Sengupta, 77% of the population in India was surviving on less than Rs. 20 day in 2004-05. Of these, 22% is surviving on Rs. 11.60 per day, 19% on Rs.11.60 to Rs. 15 per day and 36% on Rs. 15 to 20 per day. The report goes on to say that 88% of people from scheduled castes and scheduled tribes, 80% from other backward castes and 85% of muslims survive on less than Rs. 20 per day.



- As per the report of the Arjun Sengupta Commission, the economic condition of farmers is critical. Their average daily income is merely Rs.17, of which they spend 60% on food, 18% on fuel, clothes and footwear. They spend Rs. 0.50 per day on education and Re.1 per day on medication.
- 84% of all farmers are small and marginal farmers. Their income is so low that they are always indebted.

An important issue related to land is that of perspective - land can either be considered a means of livelihood or an asset. The government makes no distinction between the two. If for a landowner, that land is not the main source of livelihood, then it is an asset. However, for farmers and tribals, land is a means of livelihood. Assets may be acquired by others, but should livelihood be taken away? If livelihood were to be acquired, how will the people survive? In such a case, it is the government's responsibility to provide alternative livelihood.

The most important land-related issue today is that land needs to be defined – land records should clearly specify whether the land is an asset or a means of livelihood for someone.





## Advocacy on Issues Related to Land

Resource Person	Jayant Verma
Duration	90 Minutes
Methodology	Lecture Method

### Objectives

- ☐ To understand the procedure for advocacy on land-related issues.

In this session the procedure for advocacy on land-related issues was discussed with the help of a case study.

### Right of Tribals Over Forest Land

For years together, tribals' right over forest land has been violated by the government itself. This case study, along with the historical background of the issue, gives a glimpse of how Samvad, an organization in Madhya Pradesh (MP) advocated for the right of tribals over this land.

Population 2001				
	Total	Male	Female	Ratio
India	1,02,70,15,247	53,12,77,078	49,57,38,169	100/933
Madhya Pradesh	6,03,85,118 (5.88% of India)	3,14,56,873	2,89,28,245	100/920

Population Density	
India	324 persons per sq. k.m.
Madhya Pradesh	196 persons per sq. k.m.

Villages	
India	5,93,643
Madhya Pradesh	52,143



Tribal Population				
	Total	Male	Female	%
India	8,43,26,000	-	-	8.20%
Madhya Pradesh	1,22,33,000	61,95,000	60,38,000	20.27%

Forest Cover in Tribal Areas							
	Tribal Districts	Area (in sq. km)	Forest Cover			Total	%
			Very Dense Forest	Open Dense Forest	Open Forests		
India	187	11,03,463	39,932	2,09,926	1,60,440	4,07,298	36.91
Madhya Pradesh	18	1,39,448	3,247	21,125	16,725	41,097	29.47

- Forests were a state subject in the Constitution of India till 1976. The revenue earned from forests belonged to the State.
- Forests were brought under the concurrent list in 1976 when environmental issues started becoming a cause for concern not just in India, but globally.
- In Madhya Pradesh 35% of the rural population derives its livelihood from forests. 20% of these are tribals.
- Forests are governed by the Indian Forest Act, 1927.
- This legislation gives no definition of forests.
- The objective of this Act is to manage the felling of trees, their transportation and sale to earn revenue for the State.
- The Indian Forest Act does not so much as mention the words "environment" and "bio-diversity".
- Under the British rule, tribals' rights over occupancy of forests, over forest produce and natural resources were protected because of the various struggles by tribals against treating forests as a property of the state.
- During the British rule, tribals' right over forest products was by law incorporated in the *vajibularz* or record of rights.
- When the zamindari system was abolished post-independence, the forest land controlled by princely states and zamindars was handed over to the forest department.



- In Madhya Pradesh then (which included Chhatisgarh), 94 lakh hectares of such forest land which accounted for 23% of total land, was classified in revenue records as protected forests.
- An initial notification was issued by the forest department to declare 56 lakh hectare land of this land as reserved forest.
- Between 1965 and 1975, 19 lakh hectare of this land on being found unusable as forest land was transferred from the forest department to the revenue department through a gazette notification.
- This land transferred to the Revenue Department was spread over 32,000 villages.
- Despite the gazette notification, the Forest and Revenue departments failed to make the requisite changes in their records and therefore this land continues to be shown as protected forest in revenue records.
- Forest department retained its illegal control over this de-notified land and continued to show this land as forest land in its records.
- Once the forests became a part of the concurrent list and after the Forest (Conservation) Act was passed in 1980, the forest department became lackadaisical about rectifying its records, since it became mandatory to seek the Central Government's permission to put forest land to non-forest use.
- Political leaders remained ignorant of this lapse. They made no efforts to rescue the people living on revenue land from being mistreated by the forest department.
- Several organisations in Madhya Pradesh carried out agitations against the atrocities of the forest department, but they were all unaware of the fact that the department was illegally laying claim over the 19 lakh hectares of revenue land.
- Anil Garg, a social worker from Baitul, carried out investigations for 15 years and obtained gazette notifications running into over 40000 pages. He then brought to light the injustice being done to lakhs of tribals and villagers.
- Former Chief Minister of Madhya Pradesh, Digvijay Singh accepted that by keeping him in the dark for ten years, the forest department kept violating the rights of tribals.
- Towards the end of his term, Digvijay Singh issued Government resolutions for rectification of records by the forest and revenue departments.
- The forest department ignored this resolution and made no efforts to rectify its records.



- 'Samvad' organization took it upon itself to give this issue visibility by raising questions in the Vidhan Sabha and by taking it to the media.
- After persuading MLAs from various political parties, about 200 questions were raised in the Vidhan Sabha. Members from all parties took part in this campaign.
- People's organisations were given information about this issue, and they were motivated to come together against this injustice.
- It was established in the Vidhan Sabha that the forest department had been illegally stacking claim over this de-notified land and had had been harassing the tribals and villagers occupying it.
- After the issue gained prominence in the Vidhan Sabha and in the electronic and print media, the government was cornered and both, the forest and revenue Ministers were forced to announce that no tribal and villagers will be ousted from forest land till the records are rectified.
- Samvad Organisation has prepared a software for giving transparency to records of forest and revenue lands in Baitaul and Sidhi districts. This software will collect and display land-related data and will be made available online.
- The outcome of this initiative by Samvad is that the eviction of approximately 30 lakh tribals in Madhya Pradesh from their land has been stopped and there is every possibility that they will get rights over their land.
- Samvad Organisation has adopted a strategy of making the cases related to dispute over forest and revenue land in Baitul and Sidhi districts transparent and taking exemplary action to fight for the land rights of people. Pressure will be mounted on government through people's representatives to make land records of all 48 districts available over the internet in order to end neglect and harassment of lakhs of tribals and villagers in the state at the hands of the bureaucracy

## **Steps Taken So Far**

The campaign that began on 1 April 2006 has managed to turn these cases that had been lying buried for nearly 35 years into a political issue. Now all political parties are taking up this issue and they are contacting us to help villagers get their land rights.

- A resource centre called Buniyad was established in Bhopal, where all land-related records were systematically documented.
- Detailed information was published in Neeti-Marg newsletter and elected representatives, NGOs and people's movements were brought in the loop.
- News, reports and features were carried again and again on these issues in newspapers and in electronic media.



- Booklets were published to provide information to people's representatives and NGOs.
- The Constitutional and human rights related aspects of these issues were studied and these were then raised in the Vidhan Sabha and also before the Central government.
- Affected persons were made aware of the government's lapses and injustices through seminars, workshops and public meetings.
- A public awareness campaign was run by coordinating with people's organisations and representatives of political parties.
- Petitions were filed with the Human Rights Commission, Commission for Scheduled Tribes and legislatures.
- Preparations are on for filing a petition in the High Court.

### **Political Significance of this Issue**

- Traditionally, tribals in Madhya Pradesh have been supporters of Congress Party. Out of 230 Vidhan Sabha seats in the state, 41 are reserved for tribals. In these reserved areas rights of tribals over land and forest-products have become a major issue. The Congress Party failed to pay heed to the tribals' demands which led to its defeat in the last elections held in 2006. Only one Congress candidate could win a seat in the elections. At present, even BJP is not serious about the issue and it is quite probable that tribals will vote against it in the forthcoming elections. The Gondwana Republic Party has shown concern over this issue. Currently there are three representatives of this party in the Vidhan Sabha. If this party or some other parties show solidarity towards the cause, in all likelihood they will win many more seats in the forthcoming elections and make their presence felt in the Vidhan Sabha.
- Congress Party leader and former deputy Chief Minister Jamuna Devi who is also currently a member of the Opposition in Vidhan Sabha has tried to attract the government's attention towards this issue. Samajwadi Party MLA, K.K. Sing has given top priority to the issue and is now working full time on it.
- MLAs of other parties also discuss this issue in the Vidhan Sabha and it has become fully politicised.

### **Strategy Ahead**

- Build pressure on government to abolish the Indian Forest Act and to implement laws which grant tribals right over forest land.
- Work is going on for creating the right atmosphere for management of forests



which will be based on medicinal, social, environmental and revenue related use of forests. A definition of forest also needs to be prepared on the basis of contemporary social, economic and geographic needs.

### **Some Important Steps Taken for Advocacy**

- The issue was studied in-depth. This helped to understand its historical background and present nature.
- The study included laws, policies and other documents related to the issue both, past and present.
- The issue was turned into a political issue by holding discussions with political parties.
- Questions were raised in the legislative assembly.
- A large number of people was mobilized by giving them information about the issue.
- Booklets, newsletters, seminars, media etc were used in order to take the issue to people.
- Information was documented and made transparent.
- Orders and results were also shared with people.
- Petitions were filed with the Human Rights Commission and other bodies.
- It was deliberately decided that the first step would not be to file a case in the court. The decision was taken because it was understood that even if the law is not in the interest of the people, the court would have to give its verdict within the framework of the law. This may lead the court to give a ruling that is against public interest.
- Petitions can also be filed in the Vidhan Sabha and Lok Sabha. Such petitions are sent to the concerned department through a committee. The department is duty bound to respond to the petition.
- Efforts were continuously kept up for bringing about improvements in law and ground reality.





## Special Economic Zones

**Resource Person** Ulka Mahajan

**Duration** 90 Minutes

**Methodology** Lecture

### Objectives

- ☐ To understand the human rights violations caused due to Special Economic Zones.

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Special Economic Zones (SEZ), the latest idea being promoted by the government to hasten development, can be seen coming up in all parts of the country. They have led to much controversy and several agitations are being held against them.

### SEZ - The Law and its Implementation

A delegation under the leadership of Murasoli Maran toured the SEZs of China in 1999. These were seen as a good or rather the only alternative for India's development and it was decided then itself to introduce this concept in India. The SEZ policy was formulated in 2000 by the NDA government. In 2005, the policy was converted into a law by the UPA government. The SEZ Act was passed after a discussion of merely one and a half days in the parliament. This only goes to show that no political party in the country has any fundamental opposition to SEZs.

In between the policy of 2000 and the Act of 2005, many developments took place. Fourteen states formulated state-level laws pertaining to SEZs. Land-reform laws, taxation laws and labour laws were amended. Under the Industrial Disputes Act, SEZs were included in the list of public interest services, with which it has become possible to place several kinds of restrictions on workers working in SEZs. So much so, that Maharashtra's SEZ law prohibits the entry of child labour inspectors in SEZs. Similarly prohibited are the officers in-charge of minimum wages.



However, discussion on SEZs shot into prominence a year after the 2005 Act was passed, when farmers' rights started getting violated. Even today, general public is not aware of how their interests are being affected.

## **Farmers' Rights**

Today more than a 1000 SEZ proposals have been approved by the government, for which more than 5.5 lakh hectares of land will be allotted to developers. The biggest SEZ in the country is being built by Reliance group of industries in the Raigad district of Maharashtra, for which they have demanded 35000 acres of land. Most of the proposed SEZs are located near big towns and cities, not in remote areas. The SEZ Act directs un-irrigated land to be used for establishing SEZs, but in reality irrigated land is being shown as un-irrigated on paper.

## **The Following are Cited as Main Objectives of SEZ**

- 1      Development of basic infrastructure
- 2      Increasing foreign exchange reserve
- 3      Export promotion and
- 4      Employment generation

*Then why are SEZs being set-up near cities which already have these facilities?*

The reason is simple. Real estate is a big business in and around cities and there are many benefits of buying land near cities. This is a conspiracy to grab land with an eye on the real estate business.

If the SEZ law be studied, we learn that only 25% of SEZ land is to be used for economic activities. The rest of the land (75%) is to be used for other activities such as shopping malls, 5-star hospitals, theatres etc., which are outside the reach of common man. These will be complete townships. Why is so much land being asked for, when only a quarter of it will be used for economic activities? The rest of the portion is for developers to reap maximum profit.

## **Status of Employment**

When land is acquired, compensation is given to only that person in whose name the land is registered. Not to the tiller. It is common knowledge that the land-reform laws have not been implemented properly in any of the states. By law the land belongs to the tiller, however, the land records have not been corrected to reflect the same.



When land acquisition takes place at such a large scale, apart from farmers, many other persons will also get affected - share croppers, agricultural labourers, fishermen in the backwater region, salt makers etc. There is no provision for them in the SEZ law.

In villages, there exist occupations ancillary to agriculture (bara balutedars), such as black smiths, carpenters, woodcutters, workers in rice mills etc. Their rights are also being encroached upon. Benefits are given to only one stakeholder viz. land owners. In these new industries employment will also be given only to persons from land owning families. There is no compulsion on industrialists to provide employment. It can not be said for sure how much employment will be generated in SEZs. Employment generation is one of the objectives of SEZs and it needs to be ascertained how many people are getting jobs and how many are losing them.

## **Rights of Workers**

Labour laws applicable elsewhere in the country will not be applicable in SEZs. The concept of SEZ emerged because it was believed that economic progress of the country was taking place at a very slow rate and workers and their trade unions were responsible for this. This issue was also discussed when the SEZ bill was being debated in the parliament. It was decided that only the Central Government labour laws could not be changed in SEZs, all the rest of the labour laws can be changed and this decision will depend on State governments too. Laws inconsistent with the SEZ law may be amended. Such amendments need not be debated in the legislative assembly, they can simply be notified in the gazette. This is extremely dangerous because it will make it nearly impossible to find out which law was amended, when and why.

There is intense exploitation in Chinese SEZs. Child labour is rampant, women work for 20 hours a day, minimum wage is not paid etc.

## **Impact on General Public**

SEZs have been given extensive tax exemptions. Enterprises located in SEZs need not pay any tax for the first 10 years. They are exempt from several other taxes - sales tax, octroi, water and electricity cess, income tax, toll tax, stamp duty, royalty, purchase tax, export duty, import duty on raw material, service tax, VAT etc. In addition, there is no licensing and no checks on import-export.

How much does the economy stand to lose because of these exemptions? According to the estimates of the Finance Minister, the country will incur a loss amounting to Rs.1,75,000 crore per year. General public will have to bear the cost of this loss. Both direct and indirect taxes will increase and simultaneously there will be a cut in social sector expenditure.



## **Enterprises Outside SEZ**

There is no provision in the law that all the production in SEZs will be exported. It can be sold in the domestic market as well after paying all the taxes as applicable to industries outside the SEZ. Yet this is likely to cause harm to domestic industries.

With the sort of concessions mentioned above being given to enterprises located within SEZs, it is obvious that the enterprises outside will not be able to compete with them. Entrepreneurs who do not manage to get their foot in will suffer heavy losses.

Sadly, other than farmers, the general public seems to be oblivious to these perils and is doing nothing about it. Financial losses apart, the provision of amending laws through notifications is a threat to the democratic fabric of the country. The Constitution has provided for a due procedure to change existing laws. These provisions are being tampered with. It doesn't end here, in SEZs there will be no arrangement for a panchayat or any form of local self-government. Development Commissioners are to be appointed and they will have complete authority to regulate areas under their jurisdiction. There is a mad rush today to obtain this position and more than 150 officers in Maharashtra, including IAS officers, are jostling to grab it. The maximum number of people coming to set-up SEZs are officers from Home, Revenue and Town Planning Departments. They have not left their jobs; they are only on a leave of 2-5 years.

SEZ law provides that no judicial proceeding can be instituted against any officer of the Board of Approval, currently being chaired by Mr. Kamal Nath. Entry into SEZs is only by an identity card which can be issued by the Development Commissioner alone. No other person is permitted entry.

SEZ will be like a foreign land. In the Act this word has been used only in the context of "customs", but on closer inspection one realizes that SEZ are being specifically designed to be treated as foreign lands.

In the past, there used to be Export Promotion Zones (EPZ) in the country. An investigation by the Comptroller and Auditor General of India (CAG) revealed that they were given (tax) concessions amounting to Rs.7500 crore but their foreign exchange earnings were only to the order of Rs.3700 crore. CAG advised that a comprehensive cost-benefit analysis of SEZs be carried out before establishing them, but this advice was ignored. The Finance Minister's opinion also met the same fate. The Parliamentary Committee formulated to study SEZs also suggested that SEZs be approved only after an enquiry. It also suggested that the policy be reviewed. However, the Committees suggestions were also ignored. Many High Court orders indicate that they are in favor of SEZs. The entire democratic process has been distorted.



More than a thousand SEZs have been approved in the country. In Maharashtra alone, 181 SEZs have been given approval. 14000 acres of land in Gorai is proposed to be given to Essel World for building an entertainment city. Poor farmers are being deprived of their lands for the entertainment of rich people.

Laws related to the environment are also being amended. The provision of Coastal Regulation Zone is being abolished for SEZs. The notification procedures for Environment Impact Assessment (EIA) have been changed already. EIA necessitated public hearings for assessing the impact of development projects; this too has been done away with, especially in context with SEZ.

This mass-scale violation of rights is being called development. This is the latest in the string of destructive policies being introduced as part of the globalization process. No political party opposes SEZs today. If the public does not awaken now, this will become the only path to development. Therefore anti-SEZ struggle is important to all other struggles for people's rights - be these for protection of environment, for rights of tribals, of workers, child labourers or any other.

Even courts believe that SEZs do not violate human rights provided fair price is paid to farmers for their land. If this is the position that the government takes, rights will have to be won through struggle alone.

## **Participants' Questions**

*Question :* From where can information be obtained that a SEZ is being established?

*Answer :* Under the Right to Information Act, this information can be demanded from the Board of Approval (Finance Ministry).

*Question :* What is the procedure for setting-up SEZs?

*Answer :* The first step is to prepare a plan and seek the State Government's approval. After getting this approval, an application can be made to the Central Government. If State Government has approved the project, then in-principle approval is given by the latter. Thereafter, final approval is given after land acquisition is complete. The notification about the establishment of SEZ comes after the final approval. Only then does the general public come to know about the establishment of a SEZ.









## Farmers' Suicides

Resource Person	Jayant Verma
Duration	90 Minutes
Methodology	Lecture Method

### Objectives

- ☐ To understand the co-relation between farmers' suicides and the way the Indian economy functions.
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India is predominantly an agrarian economy. But the condition of farmers in the country is deteriorating day by day. We must understand the shortcomings in the Indian system in order to understand the cause of this worsening plight of farmers.

### Indian Constitution

It took four years, from 1946 to 1949, to draft the Constitution of India and it is during this period that the country gained political independence. The Constitutional Committee was formed by the votes of those who used to pay property tax and who were conversant in English. They were representatives of kings and big landlords. Root of the present agrarian crisis goes back to the fact that our Constitution does not reflect the agrarian and rural nature of our society. Article 40 of the Constitution does mention the Panchayati Raj system but its beginning was made after almost three decades of independence when the Rajiv Gandhi led government was in power.

70% of India's population lives in villages and therefore, a major portion of the budget should be allocated for rural areas. But in practice, inadequate budgetary provision is made for villages. This has led to stagnation of rural economy and people from the villages are left with no option but to migrate to cities in search of jobs.



## **Value of Agricultural Produce**

- The Economic Survey, presented before the annual union budget is announced, gives an estimate of production in agriculture (including farming, animal husbandry, fishery & forestry), industry and service sectors. Agriculture's share in GDP is determined by the agricultural prices (support price) which in turn are calculated by the government using advance estimates of foodgrain production.
- Support price in agriculture has 2 components – cost of production and labour. Cost of production includes land, seeds, irrigation (electricity / diesel), fertilizers, threshers, pesticides etc. All these inputs are bought from the market and their prices are constantly on the rise. So when the cost of production rises, the ratio of labour component in the support price automatically goes down. At present the proportion of cost of production and labour is 80:20. As per the recommendations of the National Commission on Agriculture constituted under the chairmanship of Dr. M. S. Swaminathan, this ratio should be at least 50:50.
- So 80% of the support price goes to the market, while only the balance 20% remains with the farmer. The constant decline of labour component has made agriculture unprofitable for the farmer. The farmer can no longer afford to invest in agriculture. Under the present circumstances, it is difficult for farmers today to subsist on the basis of farming without any other source of income.
- When compared to the post-independence era, the prices of all goods in the market have risen considerably. The price of food grains should also have gone up proportionally. However, the price of wheat (equivalent price in today's rate) is lower than it used to be after independence, while wheat production has multiplied three times in the intervening period. Obviously government determined support prices are not in accordance with the rising prices of inputs in the market.

## **Conditions of Farmers and Indian Economy**

- As per latest report of the National Commission for Enterprises in the unorganised sector chaired by Dr. Arjun Sengupta, the economic condition of farming families was extremely critical in the year 2004-05. The report observes that the average income of farming families is Rs.17 per day. Of this, 60% is spent on food, 18% on fuel, clothes and footwear. They spend Rs.0.50 on education and Re.1 on medicines per day on an average. Thus today, the value of agricultural labour today is merely Rs.17 per day whereas the minimum wage in the country is a little more than Rs.60 per day.
- 84% of farming families are small and marginal farmers. Their income is so little that they are perpetually indebted.



- In the Union Budget for the year 2007-08 Rs.20342 crore were allocated for rural development, Rs.8558 crore for agriculture and allied activities, Rs.507 crore for irrigation and flood control. Gross domestic product of the country for this year was Rs.4400 thousand crore and the above allocation amounts to less than 1% of that.
- During the year 2006-07 the Central Government disbursed loans amounting to Rs.190 thousand crore to farmers and for the year 2007-08, an amount of Rs.225 thousand crore has been provided. In just 2 years, public financial institutions are lending Rs.415 thousand crore to farmers and an annual interest of Rs.40 thousand crore will be recovered from this lending. Thus the government allocates less amount for rural development and agriculture in a year than what it recovers from farmers as interest.
- In 1947, the population of the country was around 30 crores and the production of foodgrains was just enough to meet the requirements of this population. However, agriculture's share in the GDP was 65% then. In 2005, production of foodgrains has gone up to meet the requirements of a population of 105 crore persons but agriculture's share in GDP has declined to 20%. Under 11th five year plan, schemes are being formulated for reducing this share to 15.3% by the end of 2010-11.
- The Planning Commission and Central Government intend to bring down the current share of agriculture in the GDP from the current 18.4% to 6% by the year 2020. This implies a reduction of 1% each year.
- In 1918 British government passed a legislation for curbing money lenders. This legislation made it illegal to recover interest in excess of the principal amount. However, in 1984 the Indira Gandhi led government freed banks from the provision, thus allowing them to function as government money lenders, without any restrictions.
- Planning Commission estimates that in 2020, 40% of country population would be dependant on agriculture. At present, the proportion is 56%. Which optional means of livelihood are to be created for the balance 16% population? The planners have no answers.
- Agricultural policy makers believe that agriculture today requires a proportionately large amount of investment, which the small farmer can not afford. As per National Agricultural Policy of 2000 instead of subsistence farming, capitalists and domestic as well as foreign companies will run agriculture as an industry for profit-making. Today Reliance and other big corporations are buying 2-3 lakh hectares of land. They cultivate this land for raw materials required for their companies. This sounds the death knell of farmers.
- According to National Crime Record Bureau 1,50,000 farmers committed suicides in India between 1997 and 2005. Two-thirds of these farmers were



from Maharashtra, Andhra Pradesh, Karnataka and Madhya Pradesh (including Chhatisgarh).

- The fertilizer subsidy given by our government is less than Rs.50000 crore annually which is not even 1/10th of the loot from agriculture.
- Agriculture accounted for 63% of gross national income in 1950. The proportion came down to 22% in 2004. 70% of population was dependant on agriculture in 1950. There has only been a marginal decline in this number. Share of richest 10% of the population in the gross national income has increased to 55%.
- For over 100-125 years now, it has been illegal to charge compound interest on agricultural loans and to charge interest in excess of principal amount in this country. By amending the laws in 1984, the government has freed banks and cooperative societies from this regulation.
- Wages for the organized sector are fixed by the government keeping in mind the needs of an entire family. Wages for the unorganized sector however are to fixed to provide for only the worker. Article 14 of Constitution guarantees the citizens equality under law. Article 38 under Directive Principles of State Policy states that the State will strive to promote social, economic and political justice and it will strive to minimise the inequalities in income. The existing agricultural policy is clearly flouting these provisions.





## Big Dams and Livelihood

Resource Person	Dr. Suhas Kolhekar
Duration	90 Minutes
Methodology	PowerPoint Presentation

### Objectives

- ☐ To learn about the impact of big dams.
- 

In 1963, Pandit Jawaharlal Nehru, the first Prime Minister of India dedicated Bhakra Nangal dam to the people of the country. While doing so, he called it a temple of upcoming India and a symbol of development.

### Questions Raised from the Banks of Narmada

Today, 40 years since, questions are being raised about the expected gains from big dams. Thousands of affected persons from Narmada Valley are asking today

***Whose Development?***

***Who Will Decide?***

***At What Cost?***

### Who are the Displaced?

- Proportion of scheduled tribes and scheduled castes in country's population 24.5%
- Their proportion among the displaced persons (displaced because of dams) - 62%
- Proportion of Scheduled tribes in the total population - 8%



- Their proportion in the displaced - 47% (Source: *Citizen's Guide to the World Commission on Dams*)

Dams are constructed in hilly areas inhabited by tribal populations . Therefore tribals are most affected by them.

### **Which Dams are Classified as Large Dams?**

- Those having a height of 15 meters from the foundation.
- If the height is between 5 to 15 meters, having a reservoir capacity of more than 3 million cubic meters'.
- Dams that have an irrigation potential of 10000 hectares.

### **What have We Gained from Big Dams?**

Since childhood we are taught that dams are temples of development. However, in reality, what has been their contribution

- Efficiency of water use for irrigation from big dams is only 35-40%.
- Contribution of big and medium irrigation schemes in increase in production of foodgrains that has taken place since independence is only 10%.
- Installed capacity for electricity generation till March 1998 was 89000 MW out of which the share of hydel electricity was only 21891 HW.
- They lead to increase in social and economic inequality.

### **World Commission on Dams Found that**

Four to eight crore persons have been displaced on account of dams. When we relate this number to today's world population, we realize that at least 1 out of every 100 persons in the world has been displaced by dams.

### **Construction of Big Dams in India**

- Till 1965 - only 433 big dams
- In the next 14 years, 1121 big dams
- Out of 1554 dams till 1979 in India, 631 or 40% big dams in Maharashtra and 267 in Gujrat alone. (Source: *Taming the Waters - Satyajeeet Sinham, 1997. Pg. 83*)



Expected and Actual Irrigation From Big Dams			
Project	Expected Irrigated Area	Actual Area Covered (5 years)	Actual as % of Expected
Bhakra Nangal			
Punjab	433.4	284.8	65.7%
Haryana	777.1	869.7	121.3%
Rajasthan	231.0	266.6	115.4%
Hirakud (Orrisa)	249.4	240.9	96.6%
Mayurakshi (West Bengal)	289.5	217.4	75.1%
Tungbhadra (Karnataka)	353.8	209.3	59.2%

In all other dams, actual irrigated area is less than 40% of expected area.

Submerged Area		
Name of Dam	State	Area (in Hectares)
Tehri	Uttarakhand	5200
Dimbhe	Maharashtra	73500
Yeldari	Maharashtra	10880
Jayakwadi	Maharashtra	11870
Bhakra	Punjab, Haryana, Rajasthan	17690
Koyana	Maharashtra	12000
Tawa	Madhya Pradesh	19820
Hirakud	Orissa	75000
Almatty	Karnataka	79020

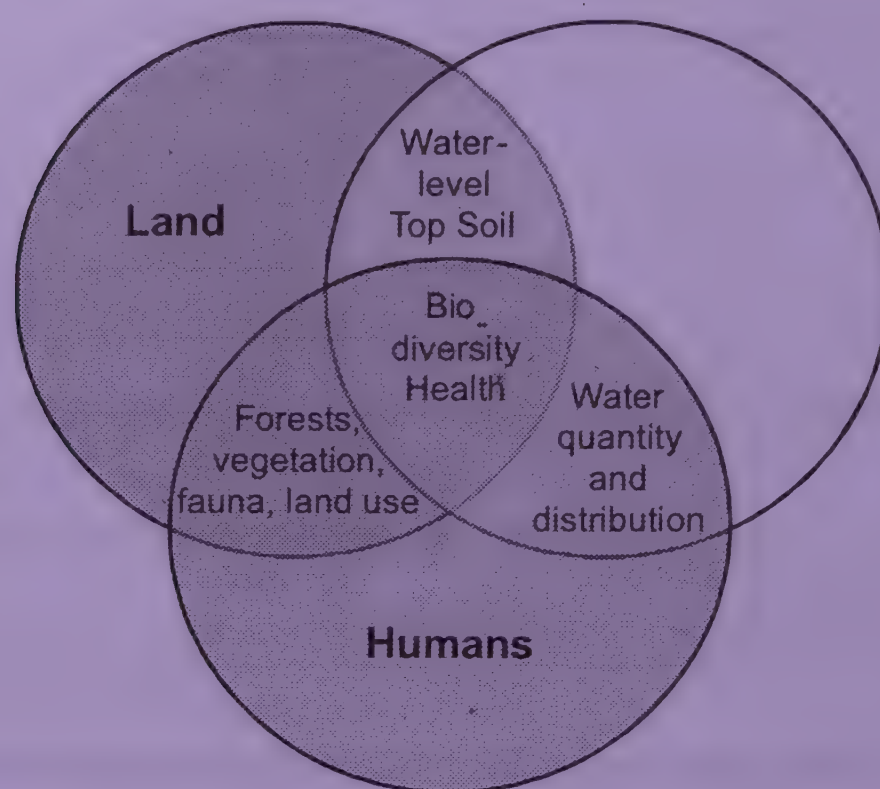
Information about submergence is found with a lot of difficulty. Information that is available may not be accurate because figures are manipulated to show minimal loss.

Inter-dependence

Tribals are the most affected by dams because their livelihood depends on natural resources. The following diagram describes this dependence. These issues are not taken



into account while preparing the cost-benefit analysis of a dam. Often, the construction of dams begins even before a clearance is received from the environment ministry.



### Attack on Bio Diversity - Meghalaya

The entire North-East area is one of the twenty-five biologically rich areas in the world which are on the brink of destruction. More than a hundred tribal communities are living here and most of them survive on traditional livelihoods which are dependent on natural resources.

#### Tehri

*"This dam has been built from our tears" ~ Suderlal Bhauguna.*

Tehri dam in Uttarkhand is 260 meters high. It is the fifth highest dam in the world. Tehri town and 40 other villages have been completely submerged by it and 70 other villages are also affected by it.

### Women's Testimonies About Travails of Displacement

*"Many organizations came together to oppose the Koelkaro dam. When the issue of displacement came up in 1986-87, the protestors and government reached an understanding that the work would proceed further only after a micro-study. After this, people's movement and student's body started this work with the support of political parties. The most important point was that there were no differences of opinion. That is how the*



project could not take off.

Rehabilitation is not an option for us. We do not believe in it for even a moment. The government may say anything, it may promise us land for giving up land, but we cannot even think about it...

- Jagmani Topno, Koelkaro Dam

“One hundred sixty two villages are in the submergence area and people in these villages have been ousted. They have no means of survival; they do not know where their next meal will come from. Those who can, have started catching fish. Some have gone to towns to work as labourers. Many of these are tribals.

Some of the 162 villages are such that they have been displaced 2-3 times and then they were settled on the edges of forests where water has stagnated. Their houses keep collapsing because of this water; they are rebuilt and they collapse again.

Children cannot be sent to school. People have sold off their cattle, they have nothing to eat, no clothes to wear. Everything is so very difficult. There is no teacher, nor any doctor. People die on their way to hospital or while coming back.

People in the submergence area had to sacrifice their lives for government's profit. Dalits, tribals and all others are facing the same condition.”

- Basantibai, Bargi Dam

Status of Some Big Dam Projects		
Name	State	Status
Silent Valley	Kerala	Abandoned
Tehri	Himalayan Region	Strong agitation against it is going on
Dihang Subhasini Tipaimukh	North East	Directionless
Sardar Sarovar	Gujarat/ Maharashtra Border	Work stopped on several occasions. Even todaywork has been stopped at the height of 122 meters. Battle for land rights is going on.

Lacunae in Construction and Rehabilitation Work

- Economic : Increase in input cost and time for completion.
- Political : corruption and lapses in calculation of costs and benefits.



- **Impact** on environment and ecology.
- **Displacement** of people and dissatisfaction with rehabilitation policy and its implementation.

## Rehabilitation of Tribal Families Displaced by Irrigation Projects

*Pimplegaon Joge and Dimbhe Irrigation Projects – TRTI Report, 2002*

Change in Occupational Status after Rehabilitation			
Sr. No.	Occupation	Before Rehabilitation Total Families	After Rehabilitation Total Families
1	Agriculture	67	45
2	Agricultural Labour	8	27
3	Other Labour	0	0
4	Wage Employment	5	7
5	Dairy	0	0
6	Others	1	2
	<b>Total</b>	<b>81</b>	<b>81</b>

Right on Land Prior to and After Rehabilitation		
Details of Land Ownership – Size of Family Land Holding	Before Displacement (Families)	After Displacement (Families)
Landless	10 (12%)	16 (20%)
Upto 2.5 Acres	6 (7%)	17 (21%)
2.6 to 5 Acres	9 (11%)	27 (33%)
More than 5 Acres	56 (69%)	21 (26%)
<b>Total</b>	<b>81 (100%)</b>	<b>81 (100%)</b>

## Sardar Sarovar Project

- Expected Height : 138.68 meters; current height -122 Meters.
- Displaced Villages and People



**Maharashtra** : 33 villages (5000 families)

**Gujarat** : 19 villages (4500 families)

**Madhya Pradesh** : 193 villages (33000 families)

- Submerged Area : 37960 hectares. Of this, 13552 hectares had rich forests.

## **Status of Displacement**

- **Madhya Pradesh** : As per the Narmada tribunal, there is no land for rehabilitation in Madhya Pradesh.
- **Maharashtra** : for tribal villages that were collectively settled on 20000 hectares of land, only 4200 hectares of forest land was made available. Out of this land, 1500 hectares are not cultivable. That is why people who were displaced when the dam reached a height of 90 meters are still living on the hills and their struggle continues.
- **Gujarat** : In spite of a very good rehabilitation policy, 19 tribal villages have been dispersed over 175 rehabilitation camps. Not only communities but even families were dispersed while doing so. This is in violation of the tribunal which states that all villages should be rehabilitated at one location only. Instead of registering any improvement, standard of living of people has deteriorated after rehabilitation.

## **How can One Say they are Not Affected**

*People who were not considered as affected, despite getting displaced,*

- 950 tribal families who have been ousted for building a colony for dam officials and yet again for building a 5 star hotel.
- Now families from 104 villages are being ousted for Shoolpaneshwar Wildlife Sanctuary. This sanctuary is in compensation for a submerged forest of 1300 hectares.
- 10,000 fisherman families have lost their livelihood in command area of the dam.
- Land of 2300 families has been acquired for digging canals.
- And many more...

These dams are standing today on a foundation of false figures of cost and benefit, corruption and politics. They are destroying innumerable people, their culture, flora and fauna, forests, rivers and the environment. If we wish to save them, we will also have to join their agitation and fight this battle for rights.







## Land Rights of Dalits

Resource Person	Eknath Awhad
Duration	90 Minutes
Methodology	Lecture

### Objectives

- ☐ To discuss the struggle for dalit land rights through a case study.

Dalits have been defined in two ways. From a Marxist viewpoint Dalits are those who do not own means of production, who are labourers and who are economically most backward. According to Jyotiba Phule and Dr.B.R. Ambedkar, Dalits are those who are disadvantaged in all ways. Dalits did not have any rights - be it the right to land, to education, to property, to nice clothes or even to have a proper name.

As per the Marxist definition, tribals and Dalits belong to the same category. However, they are two distinct identities in the India social system. Tribals are those who stay in forested and undeveloped areas. Dalits live in village communities but are lowest in the hierarchy of the Varna system. What is common to both is that they are both deprived of rights, facilities and opportunities. Today the Constitution recognizes them as a deprived community. Their right to education has been acknowledged, but even today no special provision has been made for their right to property.

Whenever Dalits bought any land, people would question where they got the money from. They would be suspected of stealing the money. If Dalits succeeded in buying land then people from other communities did not want it to be located close to their land.

### History of Dalit Land Rights

In 1919, the British government passed an Act for the upliftment of Dalits. This act could not be implemented effectively for lack of organization among Dalits. In 1920, after a meeting



in Mangaon (Maharashtra), Dr. Bhimrao Ambedkar emerged as a leader of Dalits and started working on social, economic, political and cultural issues of Dalits. He organized a number of meetings, seminars, conferences etc. to create a political space for Dalits. Consequently the British government allowed the process of upliftment of Dalits to take its own course, up to a limit.

As a result of the Dalit movement and because of changing social sensitivities, landlords in Maharashtra started distributing land from their estates to Dalits and imparted education to them. Princely families also gave away lands to Dalits. In areas under British control, land was distributed to Dalits under various names - Inam, Watan, Dhorphadi etc.

In 1939-40, the Nizam of Hyderabad issued an order in Urdu to give away his grazing land in Marathwada to Dalits. In the rural society then, all power was concentrated in the hands of Patils and Patwaris. They shrewdly ignored the Nizam's order and ensured that Dalits were deprived of their rights. In villages where dalits were more aware, they took possession of their land, which was transferred to their names by the Nizam's orders.

After independence, Dr. Ambedkar who headed the Committee for drafting the Constitution, made several efforts to get some provisions for the development and security of Dalits incorporated into the Constitution. Some budgetary provisions were also made for Dalits. However, the kind of remedies that were adopted in the Constitution for securing the right of tribals to forests, land and water, were not adopted for Dalits' right to land.

## **Struggle for Land Rights**

Today, there are several struggles going on in Maharashtra and in many other parts of the country for securing right to land for Dalits. The struggle for grazing land in the Marathwada region of Maharashtra is well known amongst these.

As a result of the Nizam's orders (1354 Fasli order), Dr. Ambedkar's movement, Dalit Panthers movement etc. the Government of Maharashtra passed a resolution in 1978 which ordained that those Dalits who had taken possession of their land would get its legal entitlement. Due to lack of political will, this resolution failed to get implemented.

Because of starvation and unemployment among Dalits, other people kept occupying land over which government had given them rights. There was proportionate increase in atrocities committed against Dalits. In the conflict over grazing land, some Dalits lost their lives, others were ostracized from society, their houses were burnt down, but continued their struggle and did not concede defeat. The outcome was that in Marathwada, in 70% of the villages, grazing land is now in the hands of Dalits. Many conflicts between Dalits and caste Hindus have taken place over this issue. The government has always sided with caste Hindus. However Dalits are holding on to their land unwaveringly, owing to their



determination to lead a life with dignity. Because of this struggle of Dalits, in 1991, which was also Dr. Ambedkar's birth centenary year, an order was passed in a cabinet meeting in Aurangabad that the land occupied by Dalits prior to 14 April 1991 be regularized and land up to 5 acres be registered in the names of Dalit men and women.

Even after this directive, the government machinery has remained as lackadaisical as before. By citing the Nizam's order, the Dalits have continued their struggle to occupy their land and this struggle continues till date. They are prepared to deal with whatever consequences they may face.

## **Human Rights Campaign**

To Dalits, land is not only a source of livelihood but also a symbol of power and dignity. Land won after much struggle, is a symbol of the fact that Dalits too can challenge the caste Hindus, they too are powerful and they too have the right to possess wealth.

Human Rights Campaign, a mass-based organisation headed by the resource person, held a conference on the issue of grazing land in 2001 in Telgaon village in Marathwada. It then joined hands with other organizations in the State and began its work on Dalit's land rights. Taking the orders of the Nizam and the State Government as supportive documents, the Campaign continues its work on the issue of land rights of Dalits.

The campaign has been running in Marathwada for the last 15 years. It is doing three types of work, classifying land into three categories,

- 1 Land which was given by the Nizam to Dalits. The work of developing this land, protecting its crops, earning a livelihood and sowing and planting trees for environment protection is going on.
- 2 Land which belongs to Dalits legally, but for which they do not hold title deeds. Work of preparing title deeds, transferring titles in the name of Dalits and ensuring that titles are held jointly in the names of men and women is going on.
- 3 Land in those villages in which Dalits currently hold no land. This category is the bone of contention. Efforts are on to occupy fallow and public land in these villages. The campaign is prepared to meet any challenge that comes its way in this process - imprisonment, police, social ostracism, destruction of harvest, houses being burnt, even death.

Whether the government accepts it or not, Dalits have adopted a slogan : "Bhoomi amchya hakkachi, nahee kunachya bappachi" (this land is rightfully ours, it does not belong to any one else); "Jo bhoomi sarkari hai vo bhoomi hamari hai" (Government land is our land).



The call is surely a bold one. The campaign has gone ahead and after occupying government land, people are harvesting it. The campaign has helped Dalits acquire 1.5 lakh hectares of land in the last 15 years. Last year it completed the legal procedure for getting the land titles transferred in the names of 35000 families.

The government has done nothing to help Dalits acquire the land that is rightfully theirs; it has been won after many a struggle. Efforts are being made to get the maximum number of Dalits associated with the campaign. To strengthen the campaign, problems faced by a single Dalit in a village are given the shape of a mass issue. Other villages are also roped in. This is not a battle for land alone; it is a battle for leading a life with dignity. The campaign has adopted various strategies. Political parties are being involved in the struggle. Elected representatives are being made party by asking them to raise questions in the Vidhan Sabha.

In Marathwada, it is the landlords who have traditionally invited dalits for a feast on a certain no-moon day every year. After having acquired land, Dalits are also inviting these landlords for this celebration. Not only do they own land now, they also possess the means to live with respect and equality. There are many risks involved in this struggle, but then there are no alternatives. Many other campaigns have joined in. Women's saving groups, bal panchayats, other campaigns working on Dalit issues are also participating.

Even in the 21st century the government does not recognize Dalits' right to cultivate land. The government is distributing some land under the Karmaveer Gaikwad Swabhiman Yojana, but it is merely a scheme, not a right. There is a difference between a scheme and a right. Schemes operate at the mercy of governments but rights make life meaningful.

Government's approach towards dalits has so far been that of charity or welfare. Government of independent India even today does not feel that Dalits as citizen of this country should have right to land. If this right is to be recognized then a national policy on land needs to be formulated. This does not happen because till date the reins of power have been in the hands of landlords. The Constitution may well have accorded Dalits the right to possess wealth, but in reality they continue to be deprived of it.

Laws such as Land Ceiling Act are being repealed enabling the landlords to acquire even more land while leaving landless where they were. Today, domestic and foreign investors are scrambling to acquire more and more land. So far, only Dalits were struggling for their land rights, now even caste Hindus with small land holdings will need to fight for their rights. Dalits will be further deprived of their right to land. It appears that like struggles for other rights, the struggle for right to land will also die without meeting its desired goal.





## Rights Related to Pisciculture

<b>Resource Person</b>	Anand Kapur
<b>Duration</b>	90 Minutes
<b>Methodology</b>	Lecture Method

### Objectives

- ☐ To develop an understanding of the rights of local communities over fresh water fishes of dam reservoirs.

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### Struggle for Fishing Rights in Dimbhe Reservoir

Dimbhe dam's reservoir in Pune district covers an area of 2000 hectares. Several people have been affected by its construction - 11 villages were resettled on land provided by the government, but people from the remaining 19 villages settled on the banks of this reservoir. The population of this entire area is approximately 27000, of which 99% are tribals. There are about 175 fishing families, of which 79 are from Katkari tribal community, 11 from Thakar tribal community, 79 from Mahadev Koli and a few from Dalit and Muslim communities (in all, there are about 175-200 affected families).

Katkaris are a primitive tribe who do not have any other means of livelihood besides fishing. The dam was filled in 1990. By 2000 it had already been emptied twice. Previously they used to get some work in nearby farms but now the farms have also been destroyed.

### Concerns of Fishing Families

After the dam was built, the local families had to face several problems in order to continue with their means of livelihood. Some of their concerns are as follows:

- **Fishing Nets** : When the river used to flow freely, local people could easily fish in its waters. After the reservoir was constructed, their small nets are no longer adequate for fishing in its deep waters. There is no arrangement for marketing the catch either.



Nets are available in the market at the rate of Rs. 450 - 500 per kg. Efforts were made to get some financial help from the government and the organization also made some contribution. The government provided nets of 2-3 kgs to each fisherman.

- **Boats** : A fishing boat costs Rs. 15000 to 20,000 in Maharashtra. Fisheries Department is willing to give only 50% subsidy, with an upper limit of Rs. 3000. Because of the high cost, fishing boats from Bargi dam in Madhya Pradesh (another project affected area) were brought in and they worked well. A programme to make fishing boats with the help of artisans from M.P. is also going on. These boats cost about Rs. 6000, in which metal sheets cost around Rs.3000 and the rest of the investment is required for timber and labour. With the help of government subsidy, it becomes feasible to make such boats affordable. In 2003, the organization gave 18 to the local fishing families. The government also showed interest in this activity and gave 35-37 boats. There exist about 80-82 boats in the reservoir today.
- **Organization** : The most important requirement in this occupation is organization. The experience of friends from Bargi dam movement was of invaluable help in organizing fishermen at Dimbhe. Meetings began in 2002-2003, awareness was spread among people and then an organization was formed.
- **Contractor** : Because of the experience of Bargi, people of Dimbhe were also familiar with the problems that arise because of contractors. 1) The contractor who had taken a contract of this reservoir in 2003 put very little fish seed in the water and so there was hardly any fish. For a good produce it is necessary to put seeds of 3-4 species such as Katla, Rahu and Mrugal. The contractor put seeds of only Katla because this fish remains close to the water surface and grows rapidly. Adequate feed was also not put. Approximately 175 fishermen together had not more than 200 kg of net. 2) In September 2005, the contractors suddenly arrived with 20 fishermen, 10 boats and 2000 kgs of net. The resources which used to last the local people a whole year were exhausted by the contractors in barely 15-20 days. The locals were left with only one option - brewing liquor to earn a living. 3) The fishermen hired by the contractor were not local people; they had been brought from other states. These three particular points meant a breach of contract by the contractor.

The fishermen organized themselves against the contractor in a struggle led by Kusum Karnik. Some 150-200 persons took part in this struggle. They stopped the contractor's fishermen from taking their nets out of the water; their boats were confiscated and they had to leave the reservoir. In spite of the violation of so many conditions, the government did not take any action. If the nets were allowed to stay in the water for another 10-15 days, the entire fish stock would have been caught and taken out. The old contract was scrapped in 2006. Dimbhe Society was established in June 2006. The local tribals, members of this society, got a contract in July 2006.



## **After the Struggle**

### **Increasing the Productivity of the Reservoir**

Dimbhe reservoir was filled with water for the first time in 1990. To proceed with the work of the dam, it was emptied once in 2000 and then again in 2002. This killed all the fish in the reservoir. Whenever a new dam is built, it is the responsibility of the Fisheries Department to put seeds in it for the first five years. However, no one knows who, when and how it was done. There is every likelihood of corruption in the process.

Fish seed is very small and delicate. It can quickly perish if a wave comes and hits it. Some fish seed perished in this way. Whenever there is a flood, water has to be realized from the dam. Seeds of fish like Katla which are close to the water surface flow away with the flood water. The technique of planting the seeds so that they stay alive for the maximum number of days also had to be learnt. Mumbai's Central Institute of Fisheries Education helped in this matter. It does not make sense to put small seedlings in a big reservoir because then out of 100, barely 5-10 fish survive. If the seedlings are first put in a small pond and enough food is provided, then within 3 months grow enough to survive in the bigger reservoir. If they are then placed in a big reservoir, 90-95% of fish survive. This does not require a huge investment and the cost of the seed is also recovered.

Central Institute of Fisheries Education carried out one more experiment. If the seedlings are put in a wooden frame fixed with a mosquito net like net, then it is not necessary to put them in a small pond also. The frame can be directly placed in the big reservoir. One more advantage of this technique is that the fish grows in the same water throughout. The central government gives a subsidy for using this technique.

### **Struggle for Human Rights and Establishment of a Sangh**

Bargi reservoir was filled in 1990. It was said at that time that 102-103 villages would be submerged. In reality, 152 villages were affected and the struggle for the rehabilitation of its villagers continued between 1992 and 1998. Small struggles continue till date. At that time, the dam was in the hands of contractors. Conditions were so bad that the fishing families were struggling for survival and even under these circumstances the contractors' bullies would come and grab whatever little catch the families had. Local people protested against these atrocities. After a long struggle the contract was cancelled. 54 co-operative societies were formed and the Bargi Bandh Visthapit Kharidi Bikri Sangh was founded. This Sangh used to collect the catch from these 54 societies, sell it and distribute the earnings to the members.

When the contractors had monopolized all dealings, they used to pay Rs. 6.50 per kilo of fish. After these co-operative bodies came into being the rate increased to Rs. 10 per kg and by 2001 it had been pushed up to Rs. 14.5 a kg.

After this it was decided that fishing would not be carried out from 15th June to 15th August,



since this is fish breeding season. It was decided that some income would be set aside in the remaining ten months from which fishermen would be given some amount for sustenance during off-season. The average annual catch increased to 550 tons, the biggest catch recorded. This amounted to a turnover of Rs. 2.5 crore. Fish used to be sent upto Kolkata. In spite of such high production, the Madhya Pradesh government was unwilling to give work to these co-operative societies and therefore it discontinued the contract. Since then the government has been running these operations by itself. Production declined to 300 tonnes and two years ago it was barely 190 tonnes.

## **Current Concerns**

A new model emerged from Bargi - make primary cooperatives, then build a marketing federation. The model has been implemented throughout the state. One fisheries federation was set up at state level, some at district level, some at the level of reservoir and cooperatives were also set up. However these are not really co-operatives, they merely exist on paper. In reality, they are being run by contractors. On making enquiries in Pune, officials could not name any societies.

Another experiment in co-operatives began at Tawa dam reservoir near Hoshangabad. 29 co-operative societies were formed. Area of this reservoir is just about one third that of Bargi. For that past 11 years, its yield had been good. This contract was also cancelled. The reason given was, that fish comes under the category of wild life. According to the 2002 Wildlife Act, fishing is prohibited in all waterbodies, if even a part of it falls within the area of wildlife sanctuaries and national parks in the country. Tawa reservoir is a part of Satpura National Park and therefore fishing in it was prohibited.

## **Demands from the Government**

- Only those who have been displaced by reservoirs and/or those staying on the banks of the reservoir should get the right to fish in its waters. Contracts should not be given to outsiders.
- Each fishing contract is of the duration of 5 years and every year some amount of money needs to be paid for its renewal. The rate table to determine this payment is not proper. It has been decided that fish catch from reservoir like Dimbhe should be 100 kgs per hectare per year. The contract amount is calculated as 1% of annual production. Here the annual catch comes to only 30-35 kg /hector, it cannot be 100 kgs as assumed. The national average is barely 10-15 kgs. All the dams which lie to the west of Pune, in the Sahyadri range are very deep. Fish food, green algae is produced in reservoir up to the point where sun-rays penetrate the water. Fish at levels deeper than this cannot be caught. Dams to the east of Pune are less deep. They yield more fish. So the contract amount for reservoirs like Dimbhe (which lie to the west) should be reduced. This amount should be decided separately for reservoirs based on the conditions like primary productivity of water, its depth, geographical



formation, temperature, quantity of fish seed put in the past years, catch of past years, actual production etc.

- No harm is caused if local fish is caught before putting the seed in the water or if those local fish are caught which do not breed in that season or which breed throughout the year. This should be permitted.
- Scientific studies on fishery indicate that few species of fish - Rohu, Katla, Mrugala and Cyprin are nurtured for fishing in fresh water. Local fish species also need to be included.
- Wholesale markets are very dirty. Fishermen have to work everyday under these filthy conditions. Proper arrangement should be made for this.
- Study, survey, research and planning should be carried out for all reservoirs in the country. If we believe that local people should have right over local resources, improve the resources with the help of those rights, nurture them while deriving their livelihood from them, then local fishermen should be made principal partners. Their local knowledge should be respected. Present conditions of reservoirs should be studied by different research centres with the involvement of local fishermen, local communities and organizations. Work plans should be based on these studies. An integrated development model for poverty eradication was formulated for 380-400 villages in the command area of Dimbhe reservoir which was implemented by the Commissioner of this area. The programme included issues other than fishing.
- Fishermen's co-operative societies - On the one hand the government is promoting women's self help groups. On the other, no fishery contract has ever been given in Maharashtra to these groups or their federation. This has happened because of lacunae in laws and it needs to be remedied.
- No working capital has been provided to any co-operative society (of fishermen). When friends from Bargi started their work, they were given a grant of Rs. 5 lakh and an interest free loan of equal amount to be repaid over 5 years. Government of Maharashtra has not followed this example. It should think about it.
- Fishermen's co-operative societies need training, covering all aspects such as record keeping, book keeping, audit etc. This need should be met.

There is no alternative but to go through the government in this occupation today. One needs to work on all the above matters to make progress in this field.

*"Yahan zameen doobi hamari; yahan kee machhli kaise tumhari"* (We are the ones who lost this land; who are you to claim its fish?) - A slogan from the Bargi movement.









# Population and the Struggle for Resources

Resource Person	Manisha Gupte
Duration	90 Minutes
Methodology	Lecture, Film

## Objectives

- ☐ To introduce participants to theories and facts related to population.
  - ☐ To dispel the myth that excessive population is responsible for shortage of resources.
- 

The participants were shown two documentaries by Deepa Dhanraj prior to the session - "Something like a War" and "The Legacy of Malthus". Both the films focus on the human rights violations against women and the poor in the name of population control.

## Some Results of the Population Control Program

- According to a study by a Delhi based organisation called "SAMA", in Rajasthan , a Dalit woman was forced by her family to bear a third child when she was elected as Sarpanch (head of local government body). Due to the "two child policy" in force, she had to quit from this post. When this child passed away, she was not given a death certificate so that she may not contest the elections again.
- In another village, when the wife of a male Sarpanch delivered a child for the third time, he denied having any relationship with his wife in the past three years, just to save his post.
- In a country like India, population policy is not simply a set of rules. It is strongly influenced by factors such as caste, class, gender etc.
- In the population control program in India, nurses and other associated officials



were given targets for sterilization. The pressure to meet the targets was so high that in a tribal area, Manda Parval, a nurse committed suicide in 1984 on not being able to meet her target.

- Chinese population policy enforces the “one child rule” in most parts of the country. Due to this policy and due to male-child preference, people do not get the birth of their daughters registered. In a lot of regions as many as 5000-10000 girls do not figure on the official list. These girls suddenly show up when it is time to get them admitted into schools.

In places where people are not allowed to have more than one child, children do not have many relatives. When they grow up, each child has to shoulder the responsibility of several old relatives. The entire social structure has become distorted. People can no longer enjoy the rich family life that used to exist due to the wealth of relations.

Coercion leads to violation of rights. It happens when human interest is considered to be in conflict with that of the nation's. Humans, and not property or wealth make nations. Humans are the wealth of nations and unless their rights are upheld, no nation can progress.

What should then women do? Should they stop using contraceptives? No. They must have the right to contraception as well as the right to abortion and that too irrespective of their marital status. All men must also have the right to contraception.

## **Qualities of a Good Contraceptive**

- **It should be Safe :** The use of contraceptives should not cause harm to the user in any way. Contraceptive should not have any side-effects; neither should they have any long term effect after withdrawal. They cannot be compared to medicines, as the latter are to treat illness, whereas contraceptives are taken by non-ill women! Contraceptives like Net-N and Depoprovera, which had harmful side-effects, were introduced in the 1980s. Wide-spread protests were carried out against these.
- **It should be Non-Invasive :** Contraceptives should be least interfering with the functioning of vital organs; should be non-systemic (i.e., as far as possible, local); should not involve surgical implantation or removal.
- **It should be Effective :** No contraceptive is 100% fool proof. Often, contraceptives fail and women do not even realize that they have conceived, leading to trouble. Manufacturers should inform users about the failure/efficiency rate of contraceptives.
- **Its Effect should be Reversible :** The effect should not be permanent. If a user decides to have more children, after having used a contraceptive with



long term effect, it should be possible. For example, a woman with two children may have opted to undergo a sterilization operation. If later, she loses both her children in a natural disaster, she may want to have more children. This should be possible for her.

- **It should Encourage Dialogue Between a Man and Woman :** Talking about contraceptives helps a couple open up. This can be the start of a friendship. Women need to be empowered to be able to talk about contraceptives. Sometimes women use contraceptives surreptitiously, keeping their men and families in the dark. There are several reasons for this - for birth spacing or to be able to continue work or they might not want another child, and so on. This should also be done in a safe way.
- **User-controlled :** Decisions like starting or stopping the use of contraceptives, when and how to use them, type of contraceptive etc, should be in the hands of the user. Government programmes should not include contraceptives that have a long-term effect. As far as possible, the procedure for removal of contraceptives should also be user-controlled.
- **It should Increase Responsibility of Male Partner :** Contraception is not the responsibility of women alone. Men should participate equally (use of condoms, vasectomy etc.). Especially in the present scenario, when all types of diseases are spreading. Men are advised to use condoms. If a couple is using contraceptives without the knowledge of the family and if they trouble the women for not bearing a child, then it is the responsibility of the man to speak with them.
- **Contraceptives should be Easily Available :** They should be available to everyone, irrespective of marital status. Information about proper use of the contraceptive should also be made available. It should be affordable. Sexuality and reproduction are two distinct issues and should not be confused.

## **The Mathematics Behind Population Control**

Lets say a factory requires 100 workers, but there exist only 40 in the pool of available workers. What will happen? Workers will have to be sourced from outside, otherwise production will suffer and workers will have an upper hand. If workers have to be sourced from outside, how many should be sourced? Enough to keep the labour market functioning smoothly – if there are too many, things may get out of control. If instead of 40, there are 200-300 workers in the pool, the management can impose exploitative wage rate with them. The optimal size for a nation's population is also similarly calculated – on the basis of profit and loss; not by keeping in mind the best interest of its citizens.

Each nation has its own population policy depending on the size of its present population. In some countries like Norway, where population is on the decline, citizens are offered incentives for having more children. If a couple has one child, they are offered loans for a 2-



room house on soft terms, if they have 2 children, then for a 3-room house and so on. Apart from this, the government also gives gifts on the birth of a child and regularly deposits money in a bank account in the child's name, until he/she reaches the age of 18. In some other countries, governments discourage citizens from having more children, sometimes even punishing them for doing so.

It has been observed that wherever population has stabilized, it has been the result of development, and not contraceptives. In Europe, the population stabilized between 1930 and 1960 when no efficient contraceptives were available. In India, we observe that about two generations back, an average family had 7-8 children, which came down to 3-4 children a generation ago and this figure is even lesser now. Contraceptives are not the only factor behind this. Reproduction depends on several other factors

- Will the children survive?
- Will they get employment?
- Will an illiterate person have information about contraception?
- Is there access to a health centre?
- More persons in the family mean more hands to work and earn.

Whenever a nation goes to war and the men leave to take part in it, the women are encouraged to join the labour force because the factories require hands to run them. But as soon as the war is over and the men return, women are pushed back inside their homes- to give birth to children and take care of the families. There is a larger social, economic and political motive behind all this.

## Two Major Population Theories

- **Malthusian Theory** : Malthus' theory begins with the premise that resources available in nature are limited. Only those who have access to them can make use of them. He proposed that resources grow in arithmetic progression i.e. from 2 to 4, 4 to 8, 8 to 16 and so on. Population however, if unchecked, grows in a geometric progression of 2 to 4, 4 to 16, 16 to 256 etc.

Malthus was from Scotland. During his times, feudalism was still prevalent and agriculture was the main occupation of people. Tenants had to pay tax to the landlords for cultivating the land. When the lords turned to sheep breeding, they required this land for sheep grazing. The landless farmers were evicted. Farmers were told that America had vast virgin land and people who went there could claim as much of it as they wanted. Some farmers migrated there, others did not. The latter were forcibly evicted. Malthusian theory was proposed in the pre-industrialized era. There has been a huge increase in production due to industrialization. However, some die-hard adherents of Malthusian theory survive even today.



Often while arguing for the case of population control, the example of a loaf of bread is given. It is argued that bigger the population, smaller the share of bread each one receives. This argument is based on two assumptions. One, that there is only the given loaf of bread (it is incorrect to put a limit). Two, the bread will be shared equally among all. If reality be considered, some members of a family usually end up with less than a fair share and these members are women. It cannot be said for sure that resources will be distributed equally even if they were in excess. This can be observed throughout the world today. A handful of rich have control over most resources, while a large number of poor go starving each day.

- **Marxist Theory** : Karl Marx asserted that the problem of population would not exist if all the wealth in the human society were equitably distributed. According to him the root cause of the problem of population is the economy and power relations.

The struggle for resources exists because majority of the world's resources are concentrated in the hands of a small minority, while a majority of the population is left with very few resources.

Malini Karkal, a researcher, conducted a comparative study on the consumption patterns of children in different parts of the world. She found that the consumption of resources by one American child is equivalent to that of 9 European children, 50 Bangladeshi children or 250 African children. If population is to be regulated to reduce consumption, these numbers make it clear that it's the rich nations whose population needs to be controlled first.

Therefore, our population policy should not depend on the number of people in the country, but on the amount of resources available for each person if distributed equitably.

## **India's Population Policy**

In 1952, India was the first nation in the world to introduce a program for population control. If the five year plans be studied, we observe that the pressure of international loan giving agencies has been mounting. Loan is given to poor nations only on the condition that they take steps to reduce their populations. With every five year plan harsher contraceptives that target women have been introduced and more and more aggressive population control policies have been imposed upon the people.

An International Conference on Population is held in the fourth year of every decade. In 1974 during the Bucharest Conference in Romania, poorer nations exerted pressure that the issue of consumption be discussed prior to any other discussions on population. Dr. Karan Singh, the then Health Minister of India had emphatically stated: "Development is the best contraceptive." Sadly, the very next year, forced sterilization camps were run during the emergency rule declared in 1975 by the Indira Gandhi led government.



Prior to the 1984 International Conference on Population held in Mexico, America lobbied with and obtained signatures from 85 countries that they would not raise the issue of resource consumption. In 1994, women's movement exerted pressure to include the issue of development in the agenda of the Conference. The Conference was renamed "International Conference on Population and Development" (ICPD), giving the work on reproductive rights a new direction.

The ICPD was organised in the years 1999 and 2004 as well, but since the goals of the Cairo Conference remain unmet, these Conferences are known as Cairo+5 and Cairo+10 respectively. Unless the issue of equitable distribution of resources is discussed, we will continue to eradicate the poor instead of eradicating poverty.

## **Government's Role**

It has been observed throughout the world that whenever governments have drafted policies keeping in mind the social and economic development of each of its citizens, it has led to a reduction in the number of children people have.

A lot of concern is being expressed over the rapid rate of population growth in our country. But statistics show a contrary picture. The rate of population growth is rather decreasing. It is estimated that by 2021, it will stabilize. The increase that is being seen today is less because of a high birth rate, but more due to the declining death rate.

Usually over-population is blamed for most of the problems in the country – be it shortage of land, of food, unemployment or poverty. But in fact, these problems exist due to the inequitable distribution and ownership of resources. The population policy that has been imposed by the government has led to a skewed sex ratio and violation of women's reproductive rights. Therefore, while we are in support of birth control, we oppose population control.

India needs to review its population policy. The government will have to acknowledge the fact the problem lies in the exploitation of resources by a certain section of the society, and accordingly, implement laws and policies that promote equity and also withdraw all population control programs that violate the rights of poor and women.





## Tourism - Violation of Human Rights

Resource Person	Kalanand Mani
Duration	90 Minutes
Methodology	Lecture Method

### Objectives

- ☐ To understand the impact of tourism on natural resources and local people's access to them.

There exist many places in the country which are already tourist centers or are being developed for tourism. Goa is one of them. Therefore, discussions in this session are equally applicable to these other places as well.

### *People Usually Undertake Two Types of Journeys*

- **Pilgrimage or Travelling** for psychological, spiritual happiness and for attaining 'Moksha'. Till the mid 20th century, pilgrimages were the major reason for travel. People visited various parts of the country and learnt about different cultures. Pilgrimages still continue, but another form of travel has begun - tourism.
- **Tourism** : Tourism means traveling for fun, comfort, relaxation, luxury and indulgence. It has become a big industry in the course of development that followed the country's independence.

The nature and purpose of the two differ markedly. Tourism is one of the three biggest industries in the world. By one estimate, if it continues to grow at its present rate, it is poised to become the biggest industry in the coming few years. Every industry has its pros and cons. Ever since the concept of sustainable development gained currency, both the scientific community and development sector have started making an effort to view issues from multiple angles.



## **The Goan Experience**

The pros and cons of tourism are being discussed here using Goa as a case study. Goa is projected as the ultimate tourist destination suitable for travel round the year. Pilgrimages were undertaken during specific seasons, but in Goa, arrangements have been made for travel throughout the year. This means that on any given day in a year, there will be a huge floating population in Goa. Goa was once known as the land of greenery but now it is no longer so, and tourism is mainly to blame. An average Indian's perception of Goa is rooted in ignorance. Their perception of Goa is of beaches, alcohol and women ever willing to offer their bodies. In reality, Goa is much different.

### **Salient Features of Goa**

- Goa is situated on the west coast of India by the Arabian sea, sandwiched between Karnataka and Maharashtra. A confluence of the cultures of both North Karnataka and Maharashtra can be seen here.
- Eastern part of Goa has the Sahyadri mountain range which also acts as a protective shield.
- Thus both mountains and ocean are present in Goa and tourists can enjoy both. There is a very good confluence of oceanic and hilly topography in Goa. There are both oceanography and social studies institutes in Goa.
- There are two districts and 11 blocks in Goa.
- Because Portugal ruled Goa for 451 years, a common misconception about Goa is that a majority of its population is Christian. In reality, Hindus make up the majority with about 58% of the total population. Christians constitute around 29% and the rest comprise of Jains, Sikhs, Muslims etc. Goa enjoys communal harmony.
- Geographically, Goa has a shoreline of 113 kms and its total area is 3752 sq. kms.
- Goa's land can be divided into three regions. Coastal region in the west, Sahyadri mountain range in the east, and in between lies the central region of plains where the bulk of the population resides.

The natural topography of a region is sometimes a boon and may sometimes become a curse as well. In the case of Goa, it would seem that its topography is less of a boon and more of a curse. Goa became independent on 19 December 1961. Independence brought with it many changes. First was governance on the basis of democratic values. After Portuguese rulers left, grampanchayats were established to initiate democratic governance. Many programmes were started for the development of the region and many such programmes continue till date. Goa adopted the modern education system and it currently boasts of a literacy rate in excess of 90%.



## **History of Tourism in Goa**

Modern tourism started in Goa after it became an independent state. It was the era of Hippyism, when rich youth from Europe, disillusioned with their lifestyle, adopted this new way of life, marked by anarchy. There were three main centers of Hippyism in South Asia - Nepal, Varanasi and Goa. Goa was the biggest of these centers. With the coming of the hippies, began the endless phase of modern tourism. Even today, foreigners visiting Goa are seen as hippies. When the middle-class started visiting Goa, they did so to take a look at these hippies. To them, the meaning of hippies was semi-nude men and women lying on the beaches of Goa. With this perverted mentality, the middle-class of India and other foreigners started flocking to Goa.

## **Benefits of Tourism**

- With the development of tourism in Goa, innumerable people in the country and abroad have found employment.
- People from other states of India and from all over the world come to Goa. They form relations and communicate with each other, which gives everyone an opportunity to learn about other places and cultures.
- Modern facilities of roads, power, transport, water etc. are made available for the development of tourism.
- The basic benefit of tourism is earning of foreign exchange.

There is no gain without pain. What is important is that the losses must not exceed the gains. The cost-benefit ratio of development needs to be studied. What is the impact of development on the environment?

Pro-people activists have started raising questions such as what is the cost of development? Who is bearing this cost?

## **Harmful Effects of Tourism**

On any given day, there are at least 12000 to 15000 tourists present in Goa. During peak season, the number goes up to 2-3 lakhs - almost a quarter of Goa's population. We can imagine the effect it has on local life when tourists in such large numbers arrive solely for amusing themselves.

- **Land :** Development of tourism requires a lot of land which increases the pressure on it. Land is required for building hotels, widening roads, building railway stations and airports, entertainment complexes, golf courses, water parks, parking lots etc.



Most of Goa's territory consists of hilly area. There is very little leveled land for farming and for dwelling for the locals. If vacant land is given away for meeting the requirements of tourism industry, there will hardly be anything left for the locals in the coming 10-15 years. Today they live in a constant fear of being evicted from their own land.

Many entertainment complexes and casinos are coming up on the beaches. Houses are being rented out and the result is that the sea shore is no longer accessible to the fishermen. The nearly 110 km. long coast of Goa is being snatched away from the hands of Goans. Coastal Regulation Zone rules provide that hotels cannot be constructed in a zone of 500 metres from the coast. However, corrupt officials are flouting this provision. Sand dunes and mangroves are being destroyed for building hotels and traditional links of the Goans with the sea are being gradually severed.

- **Employment** : After globalization, it is being observed that it is the Europeans and not the Goans who are planning for the development of tourism in Goa. Even while visiting Goa, Europeans expect a European experience from the service industry and therefore jobs allied to tourism are not being given to the people of Goa.
- **Food** : The demands for food increases manifold. From local preparations to delicacies and ingredients from across the world are being made available. The demand for these is endless.
- **Market Prices** : The floating population exerts a pernicious influence on market price. For example, the price of Bangda fish multiplies by 4-5 times from September to December. This has an adverse consequence on the nutrition of local people. It is almost as if locals are held hostage by tourists.
- **Water** : Demand for water also shoots up drastically. Some of it is for human needs and the rest is for water sports. Water is in great demand so that tourist spots look green even in summer.

If the statistics of Delhi be seen, 17 litres of water per day, per head are available for common people. However, for Hotel Taj in Delhi, every room has been given an allowance of 2000 litres per day. The same situation applies to Goa. There is no shortage of water for the rooms and swimming pools of hotels, but for common people, water is in short supply even after good rains. In the past, Goa was self-sufficient in water and it had a very good traditional system of water harvesting. The situation today has reached a point where even schools and hospitals are not sure of getting adequate water.

- **Energy** : Demand for energy also goes up. Local generation of energy in Goa is as good as nil but per head energy consumption in Goa is the highest in the entire country. This energy use is not for locals but for hotels and tourist centers. Goa's consumption of petrol and diesel is also excessive. Demand for fire-wood also increases - mainly for camp fires.



- **Waste Disposal** : Disposal of waste that is generated has become the biggest problem for Goa today. Panchayats are being asked to form waste disposal committees but Panchayats maintain that waste is generated not by the village but by hotels. A big heap of garbage is spreading and it has become a serious problem and bone of contention for Goa.
- **Cultural Crisis** : When people of different nations, regions and cultures reach Goa and encounter local culture, a number of cultural issues are bound to arise.

Social depravity-children are being sexually exploited for pleasure. After Thailand, Goa has become the biggest paedophilia center in the world. Sex-tourism is also a major tourist attraction in Goa. Tourists believe that all women in Goa are involved in this activity. There is another misconception that all men and women in Goa consume alcohol. Many quarrels have taken place over this. Cultural practices and arts of Goa are being commercialized and rural women are being enticed into it.

- **Health** : At one time, the Gaon society was so aware that mandatory blood-testing of every person coming to Goa was done. Today, HIV/AIDS cases in Goa are growing. There are approximately 12000 HIV +ve persons in Goa and many more that are difficult to identify.
- **Impact on Environment and Ecology** : To maintain a natural balance, one-third of any land should be covered with forests. Non-governmental sources estimate that Goa's forest cover is barely 18-20%. A lot of deforestation has taken place in the last 30-35 years. Roads, railways etc., which are essential for tourism are causing harm to the natural wealth of Goa.

Sand dunes and mangroves help maintain equilibrium between salty seawater and inland freshwater. They are being destroyed due to tourism and fresh water crisis is increasing.

To reduce this harm, a new fad called 'eco-tourism' has begun. Excess of eco-tourism is also harmful. Not only popular tourists spots but forests in the interiors are also being destroyed in the name of eco-tourism.

Today, the condition is such that people fear for the very existence of Goa. People are worried - Our Goa has now been lost. Goa is no longer like it used to be. What will happen in future?

## **Participants' Questions**

*Question* : How did Goanese women enter flesh trade?

*Answer* : All women who are engaged in this trade are not from Goa. Many come from outside. When bar dancing became popular, many women got involved in it. There are



many pimps who carry on the trade through the medium of hotels. Children are being pulled into flesh trade.

Goa is a big center of drugs and narcotics in India. The drug mafia is very strong. Drug mafia and hotel industry are the biggest sources of election funds and therefore political leaders make no efforts to eliminate them.

Police also draws a lot of money from tourism. They are also a part of this nexus and therefore take no action.

All government policies today encourage development of tourism. Therefore, it is difficult to entertain any hopes from the government. One positive aspect is that social initiative is spreading rapidly. The Save Goa Movement got the regional plan of Goa repealed. As per this plan, no place would have been left for the people of Goa in another 18-20 years. A movement is going on against special economic zones also.

*Question :* What is the condition of the fishing trade?

*Answer :* There are two types of fishermen. One, who cover a distance of only a few kilo meters from the shore for catching fish. Two, trawler owners who go deep into the sea to fish. There is another kind, fishermen who fish in the backwaters. Their occupation has been badly hit because of pollution and because they have been separated from land and beaches. Fishermen are coming together to protest collectively against water sports.

All in all, the future of Goa is in the hands of civil society groups and not the government. All organs of the government have come under question.





## Disaster and Economic, Social and Cultural Rights - Violations & Fulfillments

**Resource Person** Beulah Azariah / Manisha Gupte

**Duration** 90 Minutes

**Methodology** Documentary Screening,  
PowerPoint Presentation

### Objectives

- ☐ To understand the impact of disasters on marginalized groups, focusing on the violation of economic, social and cultural rights.

### Documentary Screening

The session began with a screening of a film based on a meeting of over 60 women, survivors of the tsunami and activists involved in the tsunami relief and reconstruction efforts, from India, Indonesia, Sri Lanka, Thailand and Malaysia organized and documented by Asia-Pacific Forum on Women, Law and Development.

#### *The Main Issues that were Discussed after the Film were as Follows*

- Gender discrimination and women's human rights violations during relief work and rehabilitation.
- Violation of women's right to food.
- Increased domestic violence in camps and temporary shelters.
- Rape of women and "tsunami marriages" of young girls with much older men.
- Low standard temporary and permanent housing facilities.
- Impact on jobs and livelihoods.
- Discrimination against Dalits, both during relief work and rehabilitation.
- Discrimination against fishing families and priority to big hotel owners.



- Lack of transparency in relief work.
- More severe impact of disaster on disadvantaged groups.

## **Social Exclusion**

The impact of natural disasters is not the same on all people. It is more problematic for those who are already marginalized. The basis on which people have to face more exclusion are as below

- Economically marginalised
- Socially marginalised
- Dalits
- Religious minorities
- Linguistic minorities
- Gender
- Age
- Disability

## **Vulnerability**

Vulnerability is the exposure and susceptibility to losses and/or harm (Physical, Mental, Psychological, Social, Biological). Vulnerability is dynamic; It changes with the magnitude of disaster.

## **Three Indicators of Vulnerability are**

- 1 Through loss of assets
- 2 Through loss of entitlements
- 3 Through social exclusion

## **Who are Vulnerable?**

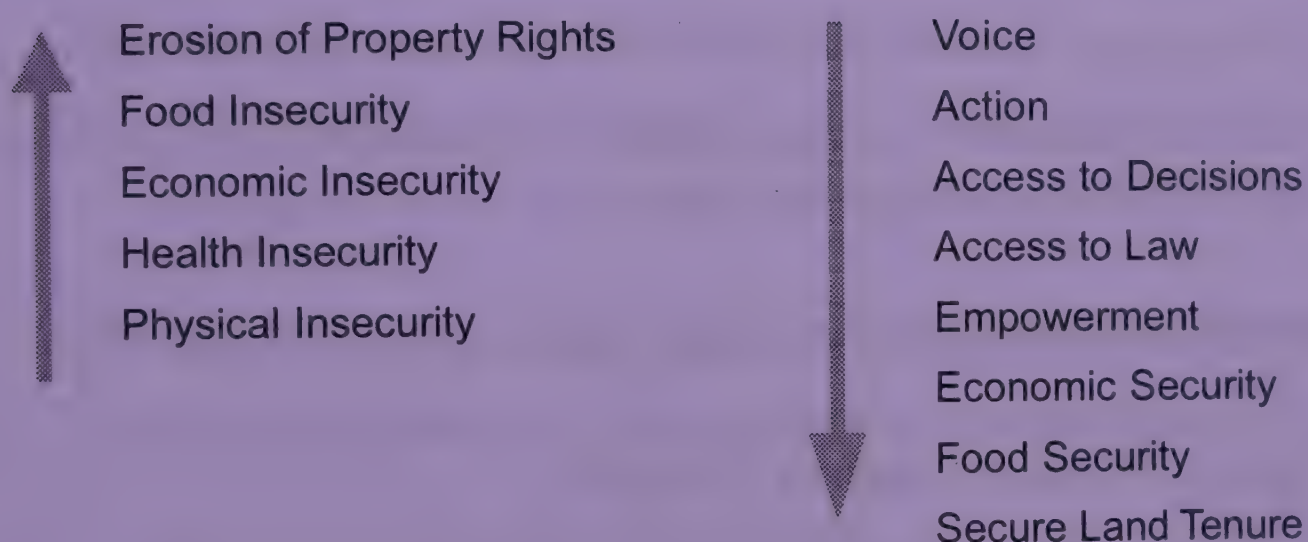
- Poor and low-income households
- Single-parent households
- Senior citizens, children and young people



- People with a disease or a mental or physical disability
- Undocumented residents, refugees
- Indigenous populations and subordinate ethnic groups
- Institutionalized populations, homeless residents
- Women

## **Spiral of Vulnerability**

Vulnerability increases the factors that lead towards violation of rights while at the same time, reducing the factors that contribute towards strengthening rights. Some such factors are listed below



## **Disaster and its Impact**

Natural disasters can strike anyone, anywhere and at anytime regardless of class, caste, gender, age, nationality, disability, sexual orientation etc. Yet, the impact of a disaster and an individual's/community's capacity to recover depends on class, caste, gender, age, nationality, disability, sexual orientation etc.

## **Some Economic, Social and Cultural (ESC) Rights that are Affected in a Post-disaster Scenario**

- Right to Equality
- Right to Adequate Housing
- Right to Food
- Right to Water



- Right to Work
- Right to Health
- Right to Education

## **Violations**

A violation of ESC rights means state's failure to comply with fulfilling it's obligation by act of omission or commission.

## **Violations - Categories**

- **The First Category** includes State violations resulting from government actions, policies, and legislation.
- **The Second Contains** violations related to patterns of discrimination.
- **The Third Includes** violations related to the State's failure to fulfill minimum core obligations of enumerated rights.

## **Violations Resulting from Government Action, Policy, or Legislation**

- Forced evictions of communities from their places of Livelihood by State agencies. (General Comment 7, CESCR)
- Due to renewed enforcement of the Coastal Regulation Zone policy , a number of those who held legal security of tenure over coastal land and properties prior to the tsunami, are being forced to relinquish them to the state under the guise of safety concerns
- The new guidelines in Sri Lanka impose a strict ban on dwellings within 100/ 200 metres of the beachfront, but fishing community are allowed to set up structures related to fishing and storing facilities, including fishing harbours, within this area. Reconstruction of damaged houses within the 100/200 metre Coastal Conservation Zone (CCZ) is also not permitted.
- Relocation - insecurity ( GC 4)
- Temporary Shelters - lack of privacy, inhabitable
- "Forced" recanalisation process – incentive based
- Tsunami – Marriages (Article 10 – Marriage must be entered with the free consent of the Intending spouses)
- Social Exclusion – Compensation policy



### **Violations Related to Patterns of Discrimination**

- Systematic discrimination against particular caste, religious, or cultural minorities (Article 2)
- Failure to protect women's equal access to food , shelter and health services
- Failure to include the livelihood sources of the women workers/ Non fishing communities/ dalits

### **Violations of Omission or State Failure to Fulfill Obligations**

- Failure to enforce laws and regulations related to enumerated obligations. (Child labour continues in many countries despite laws prohibiting employment of children)
- Failure to provide basic education. (Article 13)
- Refusal to provide emergency medical treatment (comprehensive)
- Negligence to provide reproductive health services as a matter of State policy (Article 10)
- Contraceptive shortages, and a lack of prenatal care and delivery assistance
- Mental health
- Documenting human rights violations

### **Fulfillments**

- 'Access to public goods & services' – electricity, temporary shelters, water
- Education

### **Reflection Point**

Maintain status quo or strive for transformation? What would the Rights Based Approach be?

### **Conclusion**

- To address the urgency of the present and the inequalities of the past
- The voices and perspectives of marginalised need to be given visibility









## Urban Evictions and Displacement

**Resource Person**      Simpreet Singh

**Duration**              90 Minutes

**Methodology**          Lecture Method

### Objectives

- ☐ To take a look at the violations of rights of the marginalized due to evictions from slums in urban areas.
- ☐ To take a look at some possible solutions through policies, and programs to prevent such evictions.

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There exist numerous definitions of 'development'. Of these, one definition describes development as the migration of people and businesses from rural to urban areas. After independence, many large projects were started in the country for building roads, big dams, factories etc. The rate of such development has increased manifold in the last 2 decades. Today, 37% of the population lives in urban areas. It is estimated that this proportion will go up to 50% in the next decade. This process of rapid urbanization is being seen not just in India, but in all countries of the world.

### Who are the People Being Displaced in Urban Areas?

There is a link between villages and towns. Whether or not they stay in the cities, people do get affected by them. Presently, the exchange between villages and cities is one-sided. Villages are being exploited in various ways. Resources in villages – water, farm land, labour etc. – are being exploited for use by cities. Cities require workers who are willing to work for low wages. Due to the ever increasing decline in profits from agriculture, villagers are migrating towards cities and taking up odd jobs. They do not go of their free will; they are forced to move to cities. They are compelled to accept whatever work they find, at whatever wage they get.

Towns and cities do not have sizeable resources of their own, they depend upon villages for these. In order to understand the situation of villages, it is essential to understand the relationship between villages and cities.



Special economic zones (SEZs) are now coming up in almost every part of the country. We can see their effects on villages. However, we have to simultaneously understand why they are being created. The largest number of SEZs in the country are coming up in Pune district. Several thousand acres of land is being acquired for this purpose. It is in a way concentration of land as well as wealth. Today, Mukesh Ambani is counted among the world's richest. A grand 27 storey house is being built for him in Mumbai, a city which has the largest number of homeless persons in the country. Resources are being concentrated in cities too. The income of a certain class of people is rising (they get a starting monthly income of Rs. 20–30 thousand), whereas the income of labourers has remained constant over the years or even declined in some cases. There exist thousands of persons in Mumbai who are unable to earn even Rs. 100 in a day and they do not necessarily get work on all days in a month. These people are forced to stay in the city no matter what they earn.

## **The Urban Land Grabbing**

With globalization, cities are getting connected with other urban centres. There is talk of turning Mumbai into an International Financial Center. Now all exchange will be based not on labour and production but on capital. Mumbai will be a part not of this country, but of international economy. The full impact of this process remains to be seen, but the impact that can already be seen is that on land, particularly land grabbing. Cities have only one resource of their own – land. Land is the primary requirement for starting any kind of business activity. All kinds of measures are resorted to for grabbing land – new laws are made, old ones are changed. Land is acquired sometimes in the name of broadening of roads, sometimes for cleaning up canals, or for regional development. It is difficult to even comprehend this entire process. Hiranandani is a big promoter and builder in Mumbai who has 'developed' one area in the city. With the help of Right to Information Act it was found that 200 acres of land in a city like Mumbai was leased to him by the government at the rate of Rs. 0.40 per acre. Instead of helping those who protested against these injustices, the judiciary too decided that such matters not be brought to court, but be presented before a committee.

## **Demolishing Slums in the Name of Beautification**

In 2004-05 some 70,000 houses were demolished within a period of two months, creating 3.5 lakh homeless. Taking strength in numbers, people mounted pressure on the government through sit-ins, rallies and strikes, to put an end to these atrocities. The demolitions stopped. However, people's employment became the next target. Vendors were prevented from putting up stalls. Within a day a directive to was issued to ban handcarts.

Privatization is taking place in various sectors. Water meters are being installed, and people will not get water unless they pay in advance. Be in schools or hospitals, such process seem to be taking over all the systems. First people were pushed out of villages to cities and now it seems that it is being made difficult for them to live in cities as well. BPO and other technical jobs are taking over labour-based jobs.

This is happening not only in Mumbai but in all cities. While discussing our strategy, it is essential to understand all these processes so that we perceive issues in their true light.



## **Making ' Housing For All' a Reality**

### **Make Cities Inclusive Not Global**

Shelter is one of the basic needs of every human being. The various covenants of the United Nations, especially, the International Covenant on Economic, Social and Cultural Rights (ICESCR), along with various other treaties, agreements and general covenants stress the right to housing and an obligation of the State to provide the same to vulnerable groups. The Constitution of India too recognises right to life, which incorporates guaranteeing shelter and other needs including livelihood. The National Housing and Habitat Policy has as one of its aims, providing quality and cost effective housing and shelter options to the citizens, especially the vulnerable groups and poor, while it also links with the decision making process. It sets 'Housing for All' as the national agenda and a priority area, with a focus on the housing needs of citizens in general, and that of the poor and the deprived in particular.

The goal for a proper equitable housing policy can only be attained if the policy and the plans are made with the objective of utilizing all our resources - land and human - effectively and efficiently. It also requires that primacy to the poor and due recognition of value framework of equity and justice become the basis for development planning as a whole and housing projects in specific. No city anywhere can be slum-less if the drafts of the housing policy are formulated with builders/ corporates on board.

No policy should favor or facilitate forcible transformation of Rural Communities into Urban ones. The obligations of the State need to be fulfilled towards guaranteeing every citizen's right to shelter, without any excuse of either shortage of land availability or lack of funds. Since the largest shortage of housing stock is faced by the poor, the slum dwellers and those engaged in unorganized sector, the intervention needs to be prioritized and this be the category whose needs should be primarily addressed.

*Here we submit a blue print of a framework towards realizing the goal of shelter for all.*

### **Land Availability**

While carrying out the obligation of shelter for all, a major constraint can be of availability of land. However, the principles of equity and justice come handy as a solution. The Urban Land Ceiling Act, still in place in the states of Maharashtra, West Bengal & Andhra Pradesh, with the objective of preventing concentration of urban land in the hands of a few and to bring about an equitable distribution of urban land to sub-serve the common good, provides us with the solution. Implementing the provisions of the Act, surplus land beyond the permissible limit of 500 sq. mts. should be acquired by the respective state governments and handed over to collective bodies for implementing housing schemes. Inclusionary Zoning needs to be clearly laid out and made mandatory for every upcoming project. The provisions of the Housing of the Dis-housed (HD) and Public Housing (PH) laid out in Development Plans of various cities should be strictly implemented and developed. Towards this, we propose that the State should work towards reserving land to a percentage proportionate to the poor in the total population of the specific village, town and city.



## **Finance / Subsidy**

State exchequer must be the main source of funds for housing. The employer's contributions as well as funds from employment guarantee scheme, special housing and social Service schemes for SC/STs should be brought together and used optimally. Financial institutions like National Housing Bank and HUDCO should be mobilized. Monitoring Mechanism in relation to financing should include specially created bodies such as committees with participation of people's organizations working with the Urban Communities and other experts. All deals and decisions made with the financing agencies, including international ones such as World Bank, should be transparent and participatory, taking the above committees into its fold and not just the Corporates and the builders.

## **Slums**

The poor localities in urban areas need to be seen not as illegal encroachments or inhuman settlements, but as service guilds. The unhygienic conditions, a major criterion to define a slum, are a result of iniquitous and inadequate services (sanitation, infrastructure, health and shelter) and related also to poverty, which is endogamous to economic disparity. The slum dwellers deserve and should be granted adequate space - physical (land), economic (budget allocation) and political (decision making) as a policy decision, taking cognizance of their numerical strength, social and economic needs and contribution. Slum demolitions or clearance should not be an activity recognized as legal and only 'slum development' should be part of the metropolitan region development plan. Slum Development can have the multiple components of slum improvement that would include augmentation of basic civic services like water supply, sanitation, health and medical facilities, access roads, educational facilities etc. and slum housing. Implementation of the above, has to be through government supported slum-dwellers' self-help groups, assisted with part-subsidy and part-loan at the lowest interest rate depending on the income category. The entire concept of cut-off dates is arbitrary and should be given up. Cut-off dates can be applied for provision of "free housing" schemes but government has to provide a piece of land for the shelter needs of the citizens particularly the poor. All the households in an 'informal settlement' should be considered eligible for formal housing schemes/ projects. Transit and Cheap Rental housing should be developed by the State to check the proliferation of slums at the very first. Tenure or Ownership rights over land on which the slums exist should precede any programme/scheme/project of slum development or rehabilitation. To the extent possible, in-situ rehabilitation should be the most preferred option and relocation only in the rare case where habitation is unhygienic.

Following the 74th amendment of the Constitution, each slum community (Basti Sabha) should be recognized as the first and the foremost unit of the local self governance for the purpose of development planning, with due powers and resources (including financial) allocated officially.

Employee housing must be a necessary condition for upcoming and already established large industries. The provision of Inter-State Migrant Workmen Act, 1979 that stipulates the



responsibilities of the employers towards the housing of their employees should be strictly implemented. Action should be taken against defaulters. The employer's responsibility towards the housing of its employees should cover both the permanent and temporary employees, giving special focus to contract laborers. Either the State should ensure payment of optimum wages, due perks and allowances for housing for the unorganized sector or make sure that employers fulfill the responsibility of providing housing to their employees.

## **Slum Rehabilitation Scheme**

The present SRSs are more pro-builder than pro-people. Slum renewal should be the goal and rehabilitation should be exceptional. Renewal should be planned and executed with the slum community forming self-help groups as also co-operatives. The clans and social matrix along with the social institutions in a slum community should be used as a basis for planning the renewal. SRS should be based on free prior informed consent and not without consent in any case. All the families residing in the slum at the time of the benchmark survey should be included in the Renewal Plan.

## **Housing Technology**

Technology employed must be such that locally available resources (both human and material) are harnessed optimally, especially in the rural areas ( eg. grass, mud, available wood, bamboo etc, should be used even if regular employment-generating maintenance becomes necessary). Instead of capital intensive and mechanized technology, labor intensive and environmentally conducive ways and means need to be employed. Housing design must be gender sensitive considering the special needs of women and for future expansion related to increase in family size. All the government schemes and rules for private housing must incorporate these criteria which can be further detailed. It should be made mandatory for all housing including urban, to have an Urban and Rural Water Harnessing Project such as rooftop water harvesting and small pits and tanks in the rural area. A group of houses should be provided with incentives for harnessing solar energy.

## **Infrastructure**

Housing schemes/ projects should conceptually include provisions of infrastructure which is not only physical, rather social and community based. Provision of infrastructure/ basic services should not be a profit generating exercise, rather an obligation to be fulfilled by the State towards the citizens. Amendment in the relevant Acts/ Rules and Regulations which restrict the access of communities to basic service like provision of water to only pre 1995 slums must be brought in and basic services such as public taps must be reestablished with priority in each locality. Infrastructure development should be through 'Government People Partnership'. Infrastructure should not be based on reclamation of drains and rivers in and around the cities and in rural areas, which causes flooding and drought or both. Every major infrastructure project as also housing projects must have EIA as a precondition.



## **Jawaharlal Nehru National Urban Renewal Mission (JNNURM)**

JNNURM must become democratic as against the present corporatized one. Each Basti Sabha (the unit should not be area sabha) should be the basic unit for planning and consultation. All basti plans can be combined and value added to make a city plan. Private investment including FDI in housing should be minimized with controlling rules and regulations. Huge funds provided for JNNURM can widen the disparity between the urban and the rural and hence must be curtailed and transferred to the rural areas. The mandatory objective of repeal of ULCRA Act should be withdrawn.

For formulating any housing policy, the slum dwellers' and other peoples' organizations and experts, especially those known for pro-people and pro-poor planning and housing should be the participants. Given the trend of urbanization, the need is for re-prioritizing our goals as well as the means employed to achieve them. These initiatives should aim towards fulfillment of the obligations of the state and the society towards its citizens and not be employed to minimize or earn profit over the needs of people. Any deviation from such a path would be an invitation to disasters and the goal of inclusive cities a rhetoric.

**HOUSING IS OUR RIGHT  
WE WILL HAVE IT**





## Sustainable Development

**Resource Person** Suhas Paranjape

**Duration** 90 Minutes

**Methodology** Lecture

### Objectives

- ☐ To understand the concept of sustainable development.
- ☐ To understand certain concepts and processes that help achieve sustainable development.

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Sustainable development is a concept which has occupied a place of immense importance in the development discourse in the past few years because the very survival of life on earth now depends on it. Shri. G. R. Dabholkar a professor of Mathematics, went a step ahead and linked the concept of sustainable development with sustainable prosperity. He said that there is an element of constant growth associated with development. We need to think beyond this in order to achieve sustainability. Therefore along with development, we also need to think of prosperity and well-being of all.

On the one hand we have old techniques and on the other, modern science. We must learn from the traditional techniques but we should not rely on them exclusively. It is essential to link traditional techniques with modern knowledge. If we change our viewpoint accordingly, we will be able to grow crops even in rocky land and realize the potential which has remained untapped until now. This session is an attempt towards introducing participants to a new viewpoint.

### Context

- The discourse on sustainability began in the decade of 1970s. One of the first books on pollution, written by Carlson, was published in the late 60s and it triggered a discussion on environmental issues. In the 70s, the understanding of environment deepened, but the entire focus of the environmental movement at that time was against development.



- There was a lot of criticism of growth and development. The entire understanding of development lay within the framework of capitalism (it still does). Along with continuous growth, earning profits, aggregating wealth and creating even more capital is the crux of capitalism. When the engine of growth was critiqued, talk of sustainable development began. We do want any development, but development that is sustainable. Therefore, the definition of development was reviewed. People realized that if we do not start thinking of sustainable means now (what is sustainable development? What will be its framework? What are its principles? etc.), the same old methods will continue to be used. Therefore if a new approach is to be adopted, we must codify the new principles as well.
- D.D. Kosmabi was a great historian, scientist and thinker from India. He said that golden age is not to be found in the past. Golden age might exist in the future and we all will have to strive to make it a reality. If we keep looking back we will never be able to establish a golden age.

## **Part One**

The livelihood of a vast majority of Indians relies on natural resources and their sustainability and therefore it is most important to deliberate upon this issue. Pure environmentalists give environment the utmost priority. While we acknowledge the importance of the issue, it is incorrect to think of it exclusively. Realizing that natural resources are our primary means of livelihood, we think of the protection of both, the environment and of natural resources. To understand sustainable development it is necessary to understand certain concepts.

## **Sustainability**

What is it that needs to be sustained? Several interpretations are possible. One tendency is to state that bio-diversity should be sustained. For example, many people believe that eucalyptus should be removed because it causes harm and is not native to India. Another view is that whatever exists today should be preserved as it is. However, such permanence does not exist in nature. Only one thing is constant in nature i.e., change. Processes on earth are processes of continuous change. Himalayas are growing each year. Then what is sustainability?

- If seen from the perspective of livelihood, then sustainability means that productivity of natural resources should not decrease. Changes in nature are not harmful. However, productivity (of nature) must be sustained. In India, many things that are not native in origin have become a part of common people's lives. Potato was introduced to India only in the 15th Century. Today we call it our own. Chillies and coconuts are also not indigenous to India. Monoculture also harms sustainability. So planting eucalyptus is not wrong, but its monoculture certainly is.



## **What should Productivity be Like?**

- **Productivity is of Two Types** : primary productivity and secondary productivity. The productivity of an ecosystem without the aid of any external inputs (such as fertilizers, irrigation etc) is known as primary productivity. The additional productivity after adding external inputs is called secondary productivity. Net productivity is the sum of the two.

What is essential is to make primary productivity sustainable. In today's capitalist chemical-based farming primary productivity is declining.

- It is important to distinguish between primary and secondary productivity to understand the status of natural resources. Agriculture can be made sustainable with low external input. This type of agriculture is today denoted by several names such as organic farming, bio-farming, bio-agriculture etc. These are many ways in which net productivity can be increased while retaining the level of primary productivity.

## **Stocks and Flows**

Production requires resources. Several of these natural resources are created over thousands of years. These are called stocks e.g. ground water, coal, soil etc. There also exist resources which are generated annually or over shorter periods of time. These are called flows e.g. rainfall.

Both stocks and flows are necessary for sustainable development. It is also necessary to understand the difference between the two. It is essential to maintain the quantity of flows available. Stocks are also used in production, but we should not depend on them beyond a limit.

In the capitalist system, capital and profit are given prime importance. Without caring about sustainability, resources are exploited to the fullest extent. This is very harmful.

*Proper use of stocks and flows can be planned at village-level. There are many examples of this*

- 1 In **Ralegan Siddhi Village**, a check dam was constructed. To avoid quarrels over water, only one community well was dug, which all villagers could make use of. In another village called Adgaon, this provision was not made. All families dug up their own wells. Within a few years the water reservoir started drying up and it became necessary to get even drinking water from outside.
- 2 In another village called **Hivre Bazar**, some decisions were taken collectively



for the proper maintenance of resources. a) Bore well water was to be used only for drinking. b) Crops like sugarcane and bananas which require plenty of water were not to be cultivated. With just a few steps, villagers have been able to assure an adequate supply of water for their needs. Not only this, their standard of living has also improved. For efforts of this kind to succeed, it is essential that all concerned persons support them whole heartedly.

## **Global Dimension**

The impact of development on a village is dependent upon the technology employed. For example, let us assume that Rs. 4 lakh are available for building a check dam. If cement, concrete and steel are used for the dam, a large chunk of Rs. 4 lakh will go towards buying these raw materials. Villagers will be left with only the wage component. On the contrary, if local materials such as small timber and wooden planks are used, a far greater amount will reach the villagers and in addition lesser harm will be caused to the environment.

*Whenever a new scheme comes to a village, do activists pay attention to the technology that will be employed in it? Is attention paid to the allocation of expenditure? Who is benefiting from it? Whose development is taking place?*

## **Renewable, Non- Renewable Energy and Matter**

Today, development is dependent mostly on stocks such as coal, oil etc. These resources are generated over thousands of years. Along with the use of local resources, it is necessary to ensure the resources which are used are available in the form of flows and which are renewed within a short time.

## **Part Two**

Above discussion focuses on topics which are not generally discussed by activists. This part focuses on topics that are an integral and essential part of a social-activist's work.

We have so far looked at sustainability from the viewpoint of environment and technology. However, if sustainability is to be transformed into ground-reality, social factors must also be understood.

## **Livelihood**

In the earlier discourse, the focus was on fulfillment of basic or subsistence needs such as food, fuel, clothing, shelter, education and the like. For meeting these basic necessities, it is essential to have some means of livelihood. Contemporary discourse takes account of not just basic needs, but also of needs imposed by the livelihood activity and livelihood patterns. For example, plough for farmers, soil for potters, axe for a wood cutter etc. Today it has become necessary to protect not only natural resources but also the means of livelihood.



Natural resources in our villages are sufficient for meeting basic needs of people. However, some kind of social control over their use is necessary. In every era, there have been some mechanisms of social control. However, today's capitalist system believes that whoever owns the resources has full freedom to decide their use.

Most of the basic needs of humans are such that they can be satisfied at village level; so should be the attempt. This will not only provide livelihood to the people, it will also enhance self-sufficiency.

## **Equity**

There exists a lot of inequality in villages e.g. in social relations, in production, in ideology etc. Weaker sections do not get an opportunity to raise their voice against this inequality and thus they remain weak. They do not even have access to natural resources essential for survival. For example, when an irrigation scheme is introduced in a drought-prone area, water is allocated on the basis of the size of land-holdings. More the land, more the allocation of water. This is not right. In this method of distribution, importance is given not to persons but to the property they hold. This is a feature of capitalism. If rights are inherent within a person then it's the person who should get the water. In Pani Panchyats, water is allocated to each household at the rate of 0.5 acre land per person. This vests the rights in the person and not in his/her property. This is not a first for our country. In Rajasthan a rule was made for equitable distribution of water. In seasons when there was plenty of water in canals, there was no restriction on drawing water. But during lean periods each farmer was allowed to take only as much water enough to irrigate one bigha of land. If any water was left after every one had taken their share, only then were people allowed to draw more. This resulted in minimum water assurance to every farmer.

This approach is very different from that of the irrigation department. It is necessary to bring back this approach in practice. This is the only way in which villagers can become partners in prosperity. Without this, it will be difficult to bring sustainability on a social level.

When resources are distributed it is essential to ensure that each person's basic minimum requirements of livelihood are met. In all projects, there should be equitable distribution of natural resources.

## **Participation**

In our discussion so far, it is implicit that the marginalized section also participates. They should also become a part of the process of social control and be able to enjoy their rights. It is impossible to bring about sustainability without this.

India faces a big challenge today. A large portion of the population comprises of young men and women. Our food requirement can be satisfied, but livelihood of all people cannot



be assured. It is estimated that there will be a big increase in the ranks of unemployed persons in the coming 10-15 years. Therefore we cannot limit agriculture and natural resources to subsistence level. It is essential to create an industrial society that is decentralized, failing which, sustainability will be difficult to achieve.

It is not necessary that what works in one village will be applicable to another. What is necessary however, is that we continue to stick to the path of sustainability and seek our solutions from this very perspective.





# Annexure 1

## List of Resource Persons

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## Annexure 2

### List of Participants

Name	Organisation
Abhalata	Sankalp, Jharkhand
Anoop Kumar	Jagori, Himachal Pradesh
Beena Kumari	Samvad Society for Advocacy and Development, Madhya Pradesh
Bhanu Patel	Leher Samaj Sevi Sanstha, Chattisgarh
Devika Biswas	Sankalp, Jharkhand
Dwarika Prasad Suryavanshi	Leher Samaj Sevi Sanstha, Chattisgarh
Heerabhai Shyamjibhai	Utthan, Gujarat
Kakul Shelly	Mahila Samakhya, Uttarakhand
Kundal Singh	Chaupal Grameen Vikas Prashikshan evam Shodh Sanstha, Chattisgarh
Madhubehen Bhupendrabhai Chaudhry	Olakh, Gujarat
Mansukh Lathiya	Utthan, Gujarat
Nabeen Khara	Asha Kiran Society, Orissa
Nakul Naitam	Leher Samaj Sevi Sanstha, Chattisgarh
Narendra Kumar Das	Chaupal Grameen Vikas Prashikshan evam Shodh Sanstha, Chattisgarh
Naresh Jadav	Utthan, Gujarat
Navratan Dubey	Bargee Bandh Visthapit evam Prabhavit Sangh, Madhya Pradesh
Pranay Somit Mohanty	Asha Kiran Society, Orissa
Radheyshyam	Vanangana, Uttar Pradesh
Roshan Jahan Ansari	State Health Resource Center, Chattisgarh
Sanjit Nag	Disha Samaj Sevi Sanstha, Chattisgarh
Sapan Rai	Prabala Samaj Sevi Sansthan, Jharkhand
Shakuntala Leher	State Health Resource Center, Chattisgarh
Shanti Sethiya	Disha Samaj Sevi Sanstha, Chattisgarh
Shweta Dobhal	Mahila Samakhya, Uttarakhand



# Annexure 3

## List of Films Screened During the Training

■	<b>Out of the Shadows</b> Producer/Director Language Duration Key Issues	Gargi Sen Hindi 56 Minutes United Nations, Shadow report, Human Rights
■	<b>Ram Ke Naam</b> Producer/Director Language Duration Key Issues	Anand Patwardhan Hindi 89 minutes Religion, Communal Violence, Politics, Fundamentalism, Babri Mosque
■	<b>Junoon Ke Badhte Kadam</b> Producer/Director Language Duration Key Issues	Gauhar Raza English/ Hindi; English sub-titles 33 minutes Religion, Fundameltalism, Genocide, Politics, Gujarat
■	<b>Arajakta Ki Oar</b> Producer/Director Language Duration Key Issues	Atul Pethe Hindi 34 minutes SEZ, Politics, Economy, Industry, Agriculture, Rights
■	<b>Post-Tsunami Consultation</b> Producer/Director  Language Duration Key Issues	Asia Pacific Forum on Women, Law and Development English 33 minutes Tsunami, Relief, Rehabilitation, Natutal Disaster, Women, Rights



■	<b>Kala Patthar</b> Producer/Director Language Duration Key Issues	Yash Chopra Hindi 176 minutes Mining, Labour, Rights
■	<b>Vikas bandook Ki Naal Se</b> Producer/Director Language Duration Key Issues	Biju Topo Hindi 58 minutes Tribals, Rights, Displacement, Development, Violations by State, Natural Resources
■	<b>Desi Beej, Videshi Kabza</b> Producer/Director Language Duration Key Issues	Centre for Science and Environment Hindi 26 minutes Patent, Technology, Multi Nationals, Traditional knowledge, Intellectual Property
■	<b>Something Like a War</b> Producer/Director Language Duration Key Issues	Deepa Dhanraj English/ Rajasthani; English sub-titles 52 minutes Population control, Politics, Sexuality, Reproduction, Women, Poverty, Coersion
■	<b>Legacy of Malthus</b> Producer/Director Language Duration Key Issues	Deepa Dhanraj English/ Rajasthani; English sub-titles 49 minutes Population control, Politics, Sexuality, Reproduction, Women, History, Malthus



## Annexure 4

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# Contents of Other Volumes from Mitra Series

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The Generic Module is common to all volumes. Below are the contents of only the Specific Modules.

### **Vol. 1 Women's Rights**

History of Women's Development, Impact of Religion, Caste and Culture on Women's Rights, Issues Related to Women and Development, Addressing Violence against Women at Personal and Community Levels, Possibilities of Women's Empowerment through Saving and Credit Groups, Laws and Campaigns in India Related to Women's Rights, Property and Reproductive Rights of Women, National Population Policy, Impact of Globalization and Fundamentalism on Women, CEDAW, etc.

### **Vol. 2 Right to Health**

Mental Health, Right to Comprehensive Health Care, Right to Health, Social Determinants of Health,

Right to Health in the ICESCR, CEDAW and CRC, Health Rights of Women, Advocacy related to Health Rights, NRHM and Health Rights, Reproductive Rights, Disability Issues, Sexuality and Health Rights, Violence as a Public Health Issue, Ideology of Population Control, Health Rights of the Marginalised Groups and Hierarchies, The Indian Women's Health Charter, Population Policies (National and State Levels), Discussion with Groups Working with Sex Workers, Rational Drug Policy, Patents and Health Rights, Medical Technologies and Health Rights, Patients' Rights and Regulation of Private Sector, Campaigning for Universal Right to Comprehensive Health Care (JSA, JAA)

Campaign for Right to Food, Case Study: The Campaign against Sex-Determination and Sex Pre-Selection

### **Vol. 4 Child Rights**

The Impact of Neo-Liberal Policies, Privatisation and Corporatisation on Child Rights, Overview of Child Rights Movements in India, CRC including Obligation of Parents and State, Child Centred Approach in Community, Child Centred Approach in Schools, Right to Education, Right to Food, ICDS, Mid-Day Meals, Malnutrition, Child Labour, Corporal Punishment, Street children, Trafficking, Dealing with Impact of Domestic Abuse, Impact of Sexual Abuse and Trauma on Children including Right to Sex Education, Disability and Child Rights, HIV Affected Children, Children of Sex Workers, Child Marriage, Masum's Experience of Working with Children with Rights Based Approach, Children Living in Institutions including Children in Conflict with Law, Children of Migrant Workers, Children Living in Conflict Zones, Budget analysis and Child Rights

















## **Mahila Sarvangeen Utkarsh Mandal (MASUM)**

MASUM was formed in 1987 after the women in some villages of Purandar taluka (Pune district of Maharashtra) were organised through local Mahila Mandals so as to address the burning issues affecting their lives. Most of these women were from oppressed castes and minority religions, whereas those belonging to middle castes lacked familial support.

Many of them worked as daily wage labourers on the fields of rich farmers where they were at risk for economic exploitation and abuse. They came together to support each other and collectively fight for their rights. MASUM gradually evolved as a development group with a feminist perspective and democratic approach.

### **MASUM's Objectives**

- To make women self reliant and conscious of their human and constitutional rights and to put pressure on the state for fulfilling its obligation towards its people.
- To nurture women's physical and emotional health.
- To provide vocational training and credit facilities to women for self-employment.
- To create a sustainable and humane mode of development through people's active involvement, in rural Maharashtra.
- To create a progressive space in society for all its deprived people, and to specifically resist casteism, sexism, religious chauvinism and homophobia.
- To work towards the elimination of discrimination, inequality, intolerance and violence - both, within and outside the home.
- To work towards the creation of a society based on equality, freedom, democracy, diversity and peace.